THE FRANCHISE COMMITTEE 1918-1919

LIST OF MEMBERS

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The Right Hon ble Lord SOUTHBOROUGH G C B G C M G G C V O

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Mr W M HAILEY C S I C I E I C S

The Hon ble Babu SURENDRA NATH BANERJEA

The Hon ble Mr MALCOLM N HOGG

The Hon ble Mr SRINIVASA SASTRI

SECRETARY

Mr P C TALLENTS I C S

Indian Constitutional Reforms

REPORTS

OF

The Franchise Committee and the Committee on Division of Functions

Fourth despatch on Indian Constitutional Reforms (Division of Functions)

Revised Lists of All-India Provincial and Transferred Subjects

Fifth despatch on Indian Constitutional Reforms (Franchises)



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FROM

THE RIGHT HON'BLE LORD SOUTHBOROUGH,
G C B , G C M G , G C V O ,

To

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL, DELHI.

Dated Delhi, the 26th February 1919.

YOUR EXCELLENCY,

I have the honour to forward herewith the reports of the two Reforms Committees, namely, that of the Franchise Committee and that of the Committee on Division of Functions, with their relative appendices, for transmission to the Secretary of State for India

2 When such a procedure has been desirable I have presided over meetings of the Committees sitting in joint session, but such a course has been but seldom necessary The two Committees so arranged their programme of business that they made their tour through the presidencies and provinces together and have always been in a position to exchange interviews on the matters referred to them

I have the honour to remain,
Your Excellency's most obedient servant,

SOUTHBOROUGH

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FRANCHISE COMMITTEE.

To

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

YOUR EXCELLENCY,

In accordance with the directions of the Right Hon'ble the Secretary of State for India, we have the honour to forward to Your Excellency, for submission to the Secretary of State, our report on questions connected with franchise.

2. The terms of reference to us were as follows:—

I. As regards provincial legislative Councils—

(1) to advise on franchises and constituencies in each province with the object of securing as broad a franchise and as representative a council as present circumstances in each province permit (Report, paragraph 226);

(2) to devise means for direct election as far as possible (paragraph 226);

(3) to advise how far representation can be adequately and effectively secured by territorial electorates, or where circumstances seem to require it in order to secure adequate representations of minorities, of special interests or of backward classes, by (*i*) special or communal electorates; or (*ii*) reserving elective seats for special classes in plural constituencies; or (*iii*) nomination in such measure as the exigencies of fair and adequate representation entail (paragraph 232); or (*iv*) other expedients, for instance proportional representation, etc.;

(4) to advise as to the number of nominated official members;

(5) as a result of (1) to (4), to propose a complete scheme for size and composition of each provincial council.

II. As regards the Indian Legislative Assembly:

(1) to consider the best means of constituting that body in accordance with the recommendations in paragraphs 273 to 275 of the Report without necessarily adhering to the exact numerical strength suggested, and, particularly,

(2) to advise on the possibility of direct elections, and if such a system is found feasible to propose franchise and constituencies: otherwise to propose a scheme of indirect election.

III. As regards the Council of State—

(1) to advise as to the method of election to that body in accordance with the schemes set forth in paragraph 277, and in particular,

(2) to consider (*a*) the material available for the six special constituencies; and (*b*) the *provisions necessary for securing* that the special Muhammadan and landed members *should, as far as possible,* be *representative* of the whole of India.

IV. In examining the above questions the Committee will have regard to the decision of the Government of India as to the areas which are to be the subject of special treatment (paragraph 199).

Relevant portions of the Report on Indian Constitutional Reforms.

3. In making our enquiry we have borne in mind the observations and recommendations contained in the following paragraphs of the *Joint Report of Your* Excellency and the Secretary of State on Indian Constitutional Reforms, which bear directly upon the questions referred to us:

Defects of the existing electoral system—paragraphs 83 and 84.

Conditions of the problem—paragraphs 131 to 155.

Treatment of backward tracts—paragraph 199.

Constitution of provincial legislatures and representation of minorities—paragraphs 225 to 233.

Grand Committees—paragraph 252.

The Indian Legislative Assembly—paragraphs 273 to 275.

The Council of State—paragraph 277.

Our report must be read with reference to and in the light of these paragraphs.

Method of our enquiry.

4. We have visited the three presidencies of Bengal, Madras and Bombay and also Bihar and Orissa, the United Provinces of Agra and Oudh, the Punjab and the Central Provinces. We have held sittings for the purpose of taking evidence in the three presidency towns and at Patna, Lucknow, Lahore and Nagpur. At each of these places we had the advantage, after hearing the local evidence, of meeting the heads of the respective local governments and (in cases where the system of executive council government is in force) also the members of the Executive Councils, and of discussing with them questions relating to the franchise scheme for their respective provinces. With regard to Assam the Chief Commissioner arranged that the evidence for that province should be brought before us at sittings which we held in Calcutta, where we also had the advantage of discussing with him important questions connected with the franchise scheme for his province.

During our enquiry into the case of each province, we were joined in our deliberations by two added members (one official and one non-official) appointed by the respective local governments with a view to the adequate representation of the local conditions. We desire to

take this opportunity of expressing our obligations to our added members (whose names are given in appendix XII) for the great assistance which we have obtained from them Not only did they take a share in the examination of the evidence and in deliberating upon the franchise scheme, but in several cases they supplied us with memoranda of their views

The names of the witnesses who gave evidence before us and (in the case of representative witnesses) of the bodies or associations on whose behalf they appeared, will be found in appendix XIII to this report We have kept a record of the evidence given before us and have deposited it with the Home Department of the Government of India In appendix XIV will be found the original proposals of the various local governments in regard to franchise schemes together with a note of the proceedings at our meetings with the governments of the various provinces We have also incorporated in that appendix such amended proposals or further memoranda as were subsequently furnished to us by those governments

As a result of this procedure, we are in a position to place before Your Excellency and the Secretary of State detailed recommendations relating to the matter stated in our terms of reference

PROVINCIAL LEGISLATIVE COUNCILS

5 Our proposals for the constitution of and election to the provincial legislative councils are embodied in eight schemes which will be found set out in appendices I to VIII to this report While we take full responsibility for the recommendations which we have embodied in these schemes, it is a satisfaction to us that in framing proposals for Bengal, Bihar and Orissa, the United Provinces, the Punjab and the Central Provinces, we have found it possible to adhere to the general lines of the schemes which the local governments prepared for our consideration We are glad that in many cases our amendments to the original schemes of these governments are such as they in subsequent communications with us were prepared to approve

The government of Bombay placed before us a scheme which contained alternative views on some of the main problems of representation We desire to thank His Excellency Sir George Lloyd who, at the time of our arrival in Bombay, had been in office for only five weeks, for the great assistance afforded to us We must also record our obligations to our added member, Mr L C Crump, I C S , for procuring for us the additional information which we required to enable us to complete the franchise scheme for this presidency

In Madras the government proposed two alternative schemes The first (Scheme A) was based wholly on communal electorates, and com mended itself to them as necessary for a council with such powers as are contemplated in the Joint Report The second (Scheme B) was based on a system of territorial electorates with a communal electorate for Muhammadans only, and was recommended for adoption should the council continue to exercise, as at present, functions which are mainly

advisory. We were precluded by our terms of reference from considering these alternative schemes under the limitations suggested by the local government, but we found the material embodied in Scheme B of assistance to us in preparing our proposals for the presidency. Our deliberations were assisted by our discussion with the Governor in Council of several problems that arose from the evidence presented to us.

Statistical Summary. Exclusion of backward tracts.

6. We have prefaced our scheme for each province with a brief statistical summary of the salient facts regarding its area and the composition of its population. We have given in each case figures relating to those backward tracts which the local government has proposed to exclude from the operation of the scheme and which are referred to in item IV of our terms of reference. The Government of India have not communicated to us their decision on these proposals. Where we understand that questions relating to these backward tracts will be dealt with in the legislative council, we have provided for their representation by nomination, but where the local government proposes to exclude them entirely from the purview of the legislative council, no such provision has been made.

Franchise Proposals.

Disqualifications.

7. In our recommendations regarding the franchise we have first laid down the general disqualifications of electors, which are common to all provinces. In accordance with the preponderating weight of the evidence received by us, we propose to disqualify women, persons under 21 years of age, subjects of any foreign State (but not of a Native State in India), and persons of unsound mind. The only one of these recommendations requiring discussion is that relating to the disqualification of women.

Female Suffrage.

8. We received numerous petitions from women of the educated classes urging the cause of female suffrage on the same property qualifications as for men, or at least the admission of women graduates to the franchise. More than one lady appeared before us to support this view. Several political associations, especially in Bombay and Madras, urged the same cause, but during the oral examination of their representatives we found reason to believe that female suffrage was advocated rather on general grounds than on considerations of practicability. None of the local governments advised the extension of the franchise to women, though the Chief Commissioner of Assam proposed a franchise for European women, and the Bombay government were divided on the point.

In some provinces the municipal franchise includes women, but the evidence placed before us showed that it is sparingly exercised, except perhaps in Bombay city. We are satisfied that the social conditions of India make it premature to extend the franchise to Indian women at this juncture, when so large a proportion of male electors require education in the use of a responsible vote. Further, until the custom

of seclusion of women followed by many classes and communities, is relaxed female suffrage would hardly be a reality it would be out of harmony with the conservative feeling of the country and it would involve grave difficulties in the actual recording of votes Whilst fully appreciating the object of those who advocate this measure as an aid to the emancipation of women we have decided not to recommend the extension of the suffrage to them but are of opinion that at the next revision (as contemplated by the Joint Report) of the constitutions of the councils the matter should be reconsidered in the light of the experience gained of the working of the electoral system and of social conditions as they then exist

We have however to record that one of our members (Mr Hogg) is of opinion that while there may be no very general demand for female suffrage at present no strong opposition to it was revealed by the evidence and that therefore it is advisable to remove the sex disqualification at the outset of the development of responsible government in India He would not however be in favour of making any special or separate arrangements for the recording of women s votes

Qualifications of electors

9 Our general proposals for the franchise are based upon the principle of residence within the constituency and the possession of certain property qualifications as evidenced by the payment of land revenue rent or local rates in rural areas and of municipal rates in urban areas and of income tax generally In tracts where the land revenue is subject to periodical revision land revenue has been adopted as the best measure of property qualification but in tracts where the land revenue is permanently settled we have substituted the payment of local rates which are based on a periodical rental valuation In only rare cases have we been obliged in the absence of a suitable basis of taxation to have recourse to a qualification based on the possession of immoveable property We have thought it desirable to depart from the above principles in one important respect, in so far as we recommend the enfranchisement of all retired and pensioned officers of the Indian Army whether of commissioned or non commissioned rank This step was universally and strongly advocated in the Punjab and we have considered it advisable to extend it to all provinces

In our recommendations we have not attempted to define the franchise qualifications and similar matters with that precision of phraseology which will be required in the regulations of each province but our proposals will we trust form a suitable basis for the drafting of the necessary regulations

Scheme of electorates

10 In prescribing the amount of the property qualification we have been guided by the principle enunciated in paragraph 226 of the Joint Report that the franchise should be as broad as possible consistently with the avoidance of any such inordinate extension as might lead to a breakdown of the electoral machinery through sheer weight of numbers In the case of each porvince we have satisfied ourselves that our proposals do not overstep this limit The large proportion of illiterate voters may no

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doubt cause practical difficulty: but the problem is not a new one in India, and a similar problem has already been faced with success in municipal elections by the use of coloured ballot boxes and other like devices. We are satisfied that a considerable amount of non-official assistance from honorary magistrates and other persons of local position will be available to assist the officers of government in working the electoral machinery. We have not thought fit to impose any literacy test, although this course was urged by some witnesses, since this exclude many electors who are competent to manage their own affairs. Nor have we sought to attain uniformity in the standard of property qualification for the various provinces. We have relied largely upon the local experience of the government witnesses who appeared before us, and have not hesitated to recommend differing qualifications even within the same province where we were satisfied that social and economic differences justified the discrimination. We have, however, proposed the same qualification for all communities within the same area, although this will enfranchise a smaller proportion of Muhammadans than of non-Muhammadans. We consider that this is more desirable than to lower the qualification for a particular community. The qualifications adopted by us will result in enfranchising a substantially higher proportion of the urban than of the rural population, a result which we believe to be justified by the higher standard of wealth and intelligence in the towns.

Size of electorates.

11. The following table shows the number of electors in each province according to the rough estimates prepared for us:—

Province.	Total population.	Urban electors.	Rutal electors.	Total electors.
Madras	39,827,885	32,000	510,000	542,000
Bombay	19,580,312	149,000	504,000	653,000
Bengal	45,063,697	106,000	1,122,000	1,228,000
United Provinces	47,182,044	64,500	1,419,000	1,483,500
Punjab	19,565,013	77,000	160,000	237,000
Bihar and Orissa	32,446,461	58,500	517,500	576,000
Central Provinces	12,269,638	39,500	120,000	159,500
Assam	6,000,000	..	..	300,000

It must be borne in mind that the total population of the provinces includes very large classes such as the "depressed classes" and aborigines which furnish few or no voters and will be represented by nomination.

We desire to record that in the case of the rural franchises in the provinces of Bihar and Orissa and the United Provinces, one of our members (Mr. Hailey) would have preferred that the rental qualification should be raised in the case of Bihar and Orissa from Rs. 16, 64 and 48 to Rs. 32, 96 and 64 respectively, and in the case of the United Provinces from Rs. 50 and 25 to Rs. 100 and 50 for the revenue and rental qualifications. He considers that in each case the electorate would be reduced to a more manageable size, and the representation of the landlord and tenant interests more equally balanced. The lower standard was, however, in each case proposed by the local government, and the other members of the Committee are not prepared to recommend the placing of the qualification at a higher level than was proposed by the local governments, being satisfied that the lower level would not produce an unmanageable number of voters, and would not include in the electoral roll persons of an average status inferior to those whom it is proposed to enfranchise in other provinces.

On the other hand, another of our members (Sahibzada Aftab Ahmed) is anxious to see a substantial reduction both in the rural and urban qualifications proposed for the Punjab, so as to secure a material increase in the number of electors, more nearly approximating to that proposed for the United Provinces. He points out that the population of the Punjab consists mainly of small peasant proprietors, who are likely to be better fitted both to use the vote and to appreciate the education derived from its exercise, than the large number of tenants enfranchised in other provinces, that this class has rendered conspicuous services to the State during the war, and that there is, in his opinion, a general feeling in the Punjab that the province should not be refused political privileges granted in other parts of India. The standard which we have adopted was, however, proposed by the local government, which was strongly adverse to a lowering of the standard until further experience of the working of the franchise had been gained. We were not prepared to overrule this view, but we think it likely that, at the next revision of the constitutional arrangements of the province, it may be found possible to adopt a somewhat lower franchise qualification.

Direct election with territorial constituencies

12. In paragraph 83 of the Joint Report reference is made to the restricted nature of the existing franchise, and this is further illustrated by the statistics of the present number of electors given in the statistical summary of each province. Except in the case of Muhammadans in some provinces, the general population is represented only by a system of indirect election through members of municipal and district boards. If our proposals are accepted, a large number of electors will for the first time have an opportunity of choosing their representatives by direct election. We have endeavoured to adopt the district as the territorial area for constituencies; it is a well recognized administrative unit, with generally homogenous interests, and affords the most convenient basis for the preparation of the electoral roll and the organization of electoral machinery. We have departed from this principle in the case of cities with a large population, which have been recognized as separate constituencies. The smaller

towns have usually been merged into the rural constituencies, and only where local circumstances rendered such a course unsuitable have we grouped these towns into separate urban constituencies. It will be observed that the amount of representation given to urban constituencies is on a liberal basis as compared with their population, but here also we consider this to be justified by their superior standard of wealth and intelligence and by the larger interest evinced in political questions. The towns have, moreover, a more extended experience of the use of the franchise, since it has been more widely exercised in municipal than in rural local self-government. So far as practicable, we have endeavoured to provide at least one seat in each district; but it has been necessary to gorup districts together in order to form constituencies for the representation of communal minorities where their numbers are small. As regards the allocation of seats, we have followed no single principle. but have endeavoured to allot seats proportionately to the importance of the constituency measured by a combination of factors such as population, estimated number of voters and other local conditions. In this matter we have, where practicable, followed closely the proposals made to us by the local governments.

Single and plural member constituencies.

13. In view of the fact that the franchise will be extended to a large proportion of electors inexperienced in the exercise of the vote, we consider that it is necessary at present to adopt the most simple method of election. Thus, we contemplate as a general rule single member constituencies, but our detailed proposals leave a latitude to the local governments in cases where a rigid insistence on this rule is unsuited to the local conditions, especially in the presidencies of Madras and Bombay where special circumstances may make it desirable to form plural member constituencies. In preparing our proposals for the formation of constituencies we have been much assisted by the material placed before us by the local governments. We have, however, to recognize that the estimates of the number of electors are at present necessarily imperfect, and may have to be substantially modified. Further, the local governments may wish to recommend minor adjustments of the geographical groupings of areas into constituencies. We accordingly suggests that, after statutory effect has been given to our recommendations, local governments should be free to bring forward, for the consideration of Your Excellency in Council, proposals for any changes in detail they may deem necessary in the constituencies which we recommend, provided that the size and composition of the councils and the franchise qualifications remain unaltered.

Methods of voting.

14. For reasons similar to those in the preceding paragraph we are opposed to the introduction of the more elaborate systems of voting, such as Proportional Representation, the Limited Vote and the Cumulative Vote, although we have allowed the latter system to continue in Bombay City, where the voters have had experience of it for some years in municipal elections, and where there is a general feeling in favour of its retention. We recommend that plural voting should be forbidden save, of course, in the

sense that, where a constituency returns more than one member, each elector will have as many votes as there are to be members. This statement applies to all general and communal constituencies, but not to the case of the constituencies formed for the representation of special interests referred to in a later portion of this report. Where an elector is entitled to a vote in one or more of such constituencies, he will also be allowed, in addition, to exercise his vote in one general or communal constituency. We consider that, so far as possible, the arrangements should admit of the completion of the election in each constituency in a single day, though elections throughout the province may extend over a longer period.

Communal Representation

Muhammadans

15. The Joint Report (paragraphs 231 and 232) recognizes the necessity for the communal representation of Muhammadans in provinces where they do not form a majority of electors. The evidence received by us and the opinions of local governments concerned were almost unanimous in favour of this course. In all provinces, except Bengal and the Punjab, Muhammadans are in a minority as regards both population and electors. In Bengal and the Punjab, where Muhammadans form a majority of the population, our rough estimates show that they form a minority of electors. There was very general agreement in favour of communal representation for Muhammadans in those provinces as well as in the rest of India, and the local governments urged the same step. Both Hindus and Muhammadans are thus in substantial agreement that the latter should everywhere enjoy communal electorates, and we have no hesitation in recommending that effect should be given to this common desire. We have consequently provided for the preparation of separate Muhammadan and non-Muhammadan electoral rolls, and for separate Muhammadan constituencies. In allocating the proportion of Muhammadan and non-Muhammadan seats, we have been generally urged to follow the agreement reached by the political representatives of the two parties at the joint session of the Indian National Congress and All-India Muslim League held at Lucknow in December 1916, referred to in paragraph 163 of the Joint Report, under which certain proportions were fixed for the amount of Muhammadan representation in the provincial and imperial legislative councils. The great majority of Indian witnesses and the representatives of associations, political and non-political alike, not excluding those in which Hindu interests preponderate, adhered to this compact, and it seems to us that any departure from its terms would revive in an aggravated form a controversy which it has done much to compose. In the provinces of Bombay, Bengal, the United Provinces, the Punjab and Bihar and Orissa, the local governments recommended us to adhere to the compact, whilst the Madras government provided in the first of its alternative schemes approximately the proportion of Muhammadan representation which the compact fixed. In the interests of India as a whole, we have, therefore, felt ourselves amply

justified in accepting the compact as a guide in allocating the proportion of Muhammadan representation in the councils.

Sikhs.

16. In the Punjab we have recommended a separate electoral roll and separate constituencies for the Sikhs, following in this respect the recommendation contained in paragraph 232 of the Joint Report. There is some difficulty in defining with accuracy the distinction between some classes of Sikhs and Hindus; our suggestion for meeting this difficulty is to require that the officer responsible for preparing the electoral roll shall accept the declaration of an elector that he is a Sikh, unless he is satisfied that the declaration is not made in good faith.

Indian Christians, Europeans and Anglo-Indians.

17. The other communities for which we recommend separate communal electorates are Indian Christians, Europeans and Anglo-Indians. In existing conditions candidates belonging to these communities will have no chance of being elected by general constituencies, and we would refer to Your Excellency's speech at the opening of the session of your legislative council at Simla in September 1918, in which this question was left for our consideration unfettered by the views expressed in the Joint Report. We have restricted such communal electorates to Indian Christians in Madras, to Europeans in Madras, Bombay, Bengal, the United Provinces and Bihar and Orissa, and to Anglo-Indians in Madras and Bengal, these being the only provinces in which in our opinion the strength and importance of these several communities justify this special treatment, though one of our members (Mr. Hogg) would like to see the system extended to Anglo-Indians in Bombay and the United Provinces. The Indian Christian community in the Madras Presidency numbers over a million, is growing in importance and strength, and has a high standard of literacy. It is important to note that the representatives of both the Roman Catholic and Protestant Associations expressed their willingness to unite in a common electorate. As regards Europeans, our action needs but little justification beyond an appeal both to history and existing facts. We shall subsequently deal with the representation of European commerce and industry, but in addition we feel that the European community as such is entitled to separate representation. There are many interests, such as those of professional men, government and private employés, educationists, missionaries and the like, which would not be adequately represented by members selected primarily on behalf of the capital concerned in commercial and industrial activities. The Anglo-Indian community presents a question of greater difficulty, but it is desirable to afford to them, as well as to Indian Christians, an opportunity for political education, which cannot well be secured otherwise than through the grant of representation by communal election. We should regard it as unfortunate if these communities failed to take their share in the rapidly developing political life of India. Some difficulty arises in framing definitions of European and Anglo-Indian. We have set out in appendix XI a form of words which will, we hope, prove of some assistance to those whose duty it will be to prepare the necessary regulations. We have not overlooked the recommendation of the Joint Report

in favour of the representation of numerically unimportant minorities by nomination, but, in addition to the considerations mentioned above, we would note that a representative appointed by nomination would be debarred from selection for the post of minister In recommending communal representation for these and other communities we have done so in the hope that it will be possible at no very distant date to merge all communities into one general electorate

Other claims to communal representation

18 Claims for separate electorates were placed before us by numerous other communities, such as the Mahishyas of Bengal and Assam, the Marwaris of Calcutta, the Bengali domiciled community of Bihar and Orissa, the Ahoms of Assam, the Mahars of the Central Provinces, the Uriyas of Madras and the Parsis of Bombay In these cases we did not feel justified in admitting the claim In the southern parts of the Bombay presidency and in Madras (but fortunately in no other parts of India) claims were put forward by non-Brahman Hindus for separate communal representation as a means of protection against the alleged ascendancy of the Brahman The Lingayets of the Bombay presidency asked on this ground for the protection of their interests by the reservation of seats in plural member constituencies We believe that this organized community will find no difficulty in securing representation through a general electorate in the districts where they are numerous, and the result of elections to local bodies tends to confirm us in this belief

Marathas and allied castes in Bombay.

19 A similar claim on similar grounds was urged by the Marathas and allied castes in the Deccan and Southern divisions of the Bombay presidency The representatives of this class were divided in their recommendations, some urging the necessity for separate electorates and others proposing the reservation of seats in plural member constituencies Two of our members (Mr Hailey and Mr Hogg) would have been glad to grant special electoral facilities to them by the reservation of a single seat in each of the six districts where they preponderate They consider that this guarantee would secure to the man assured minimum of representation of which they would otherwise be uncertain owing to the ascendancy of the Brahman They believe that if this representation were once secured, the community would be encouraged to take its share in the political life of the province, from which it might otherwise be excluded The majority of the committee, however, are of opinion that in view of the facts that the Marathas and allied castes number over 5 millions out of 14 million Hindus in the presidency proper, and that their voting strength will largely predominate in at least five districts with 12 seats, no sufficient case for special treatment has been established

Non Brahmans of Madras

20 In Madras a similar question was raised in a very acute form by the claim to communal representation of the non Brahman Hindus of that presidency Before our arrival in Madras, we had received a considerable body of representations relating to this question and made ourselves

acquainted with the discussions of the subject in the press. It had also been publicly stated that the composition of our Committee made it impossible for us to consider with justice and fairness the problems arising out of this controversy. We visited Madras prepared to enter into a full and careful consideration of this question, but unfortunately we were deprived of the opportunity of hearing those leaders of the non-Brahmans who claim a separate electorate and of testing their views by oral examination, since they informed us that they refused to appear before the Committee. Communications received from Dr. Nair and other leaders will be found in appendix XV. We desire to record that, whatever the merits or demerits of the controversy might be, it was our earnest wish to use our good offices to find some method of composing these important differences which are disturbing the political life of the presidency. We should have been glad, even perhaps at the cost of the disregard of sound constitutional forms, to have attempted some acceptable arrangement. The refusal of these leaders to appear at our enquiry deprived us of all power of intervention and made a settlement by consent impossible.

So far as we have been able to ascertain, the case for the non-Brahmans rests on the assertion that the Brahmans, though numerically a small community, occupy, not only for religious and social reasons but also on account of their exceptional educational qualifications, a position of preponderating influence. It is also urged that Brahmans have a share, disproportionate to their numbers, of positions in the service of Government and in the legal profession. The non-Brahmans claim that they need protection against the overpowering, though not necessarily illegitimate, influence of a class possessing so marked a degree of religious and social prestige.

The possible solutions of the problem, which emerge from our consideration of the question, may be described as follows. The first is the constitution of a non-Brahman communal electorate, comprising all classes of Hindus other than Brahmans. This solution, as we understand from their written publications, commends itself to considerable section of the political leaders of the non-Brahmans. A second alternative would be to constitute large multiple constituencies, and to reserve a certain proportion of seats for non-Brahmans candidates. A further proposal producing much the same result, though with a variation of figures, is to limit the number of Brahman candidates to be returned by such constituencies, and this course was recommended to us by another section of the non-Brahman community.

Apparently the reason why any solution on the basis of reservation of seats would not be acceptable to the first section of non-Brahman leaders is that they mistrust candidates, though belonging to their own class, in whose election Brahmans would take a part, however limited may be the number of their votes. We for our part feel unable to recommend the constitution of a separate communal electorate for non-Brahmans. Whatever value and propriety such a measure may have for protecting a minority against the pressure of other communities or interests, it would be unreasonable to adopt this expedient for protecting

a community which has l strength In the Madras presidency the he depressed or untouchable classes) outnum proportion of about 22 to 1 We have made an estimate of the relative proportions of these communities in regard to the number of voters on the franchise recommended for the presidency and we are, we think, well within the mark in estimating that the non-Brahman (again using the expression in the sense indicated above) exceed the Brahman electors in the proportion of at least 4 to 1 We cannot but think that
to politics among the non-Brahmans were
majority, the non-Brahmans would in n
such a preponderance of votes would make itself effectually felt despite the power and influence of the Brahmans The formation of a separate communal electorate for non-Brahmans would have the effect of placing the Brahmans in a separate communal electorate of their own, a position in which we are not prepared to place a community against its will There thus remains only the proposal for the reservation of a considerable number of seats for non-Brahmans in plural member constituencies But such evidence as we were able to obtain went to show that, whilst such a proposal might be accepted by the Brahmans if it were the price of an enduring peace and might, if the number of seats were substantial, be accepted by one section of the non-Brahmans, the leaders of the other section were prepared neither to submit to such a solution nor to accept it as a settlement of the controversy In these circumstances we felt it our duty to deal with the electoral position on lines corresponding to those framed for other parts of India, and in our recommendations we accordingly make no difference between the Brahmans and the non-Brahmans

On this subject we feel constrained to add this final suggestion It may be that, after statutory effect has been given to our proposals, His Majesty's Government may be willing to afford the parties to this controversy an opportunity, before the electoral machinery is completed, of agreeing upon some solution of the question, *e g* the provision of plural member constituencies and of a certain proportion of guaranteed non-Brahman seats We venture, at the risk of travelling outside the terms of our reference, to suggest that if any scheme is brought forward by the leaders of the non-Brahmans which appears likely to afford a reasonable prospect of a speedy and equitable settlement an opportunity might be allowed to Your Excellency in Council (possibly under the advice of some small commission or committee) to introduce into the electoral system for this presidency any modifications on these lines that may seem likely to lay the controversy finally to rest

Representation of Special Interests

Zamindars and Landholders.

21 We turn to an important but less contentious problem the representation of special interests In considering the claims of the landholding class to special treatment, we recognise the considerations

British Subjects.

26. In dealing with the qualifications of candidates for election as members of the provincial councils, we have taken the existing regulations as our guide, but have relaxed them in several material points. Thus while maintaining the disqualification of persons who are not British subjects, we have recommended that this bar should not apply to the subjects of Native States in India. There are many persons who, though technically subjects of Native States, reside in British territory, with which their interests are identified.

Dismissal from Government Service.

27. We gave much consideration to the question whether dismissal from Government service should in itself constitute a disqualification. The majority of us are of opinion that such dismissal should constitute a disqualification if it has taken place in circumstances which, in the opinion of the Governor in Council, involve moral turpitude, and that it should be further provided that this bar may be removed by the same authority. They hold that a regulation of this nature is essential in the interests of the good reputation of the new councils. We have, however, to record that this recommendation does not command the assent of Lord Southborough, Mr. Surendranath Bânerjea and Mr. Srinivasa Sastri, who consider it improper to limit the choice of the electorate by imposing a disqualification based on the decision of an executive authority.

Imprisonment.

28. The existing regulations debar from candidature all persons sentenced by a criminal court to imprisonment for an offence punishable with imprisonment for a term exceeding six months, or who have been ordered to find security for good behaviour. We have considered it sufficient to restrict the disqualification to persons who have been sentenced by a criminal court to imprisonment in circumstances which, in the opinion of the Governor in Council, involve moral turpitude, and have, as in the previous case, provided that the same authority may remove the disqualification.

Residence.

29. A problem of greater difficulty is presented by the question whether a candidate should be permitted to contest a constituency in which he has no place of residence. The present regulations provide that in all Muhammadan, local board, municipal and landholders' constituencies, the candidate must have a place of residence within the constituency. The evidence presented to us on this point was by no means unanimous. Associations and individuals representing what may be termed the more progressive element in Indian politics were definite in their view that there is no justification for restricting the choice of the electors in this respect, and that insistence on such a regulation might, by depriving the new councils of the services of men of experience and capacity, impair the success of the reforms now being inaugurated. The point was also empha-

vised that a residential qualification is easy of evasion in the absence of an undesirably restrictive definition Some of the local governments, namely, those of the United Provinces, Bihar and Orissa and Assam, did not press for the insertion of this qualification On the other hand, the local governments of Bengal, Bombay, Madras, and the Punjab held that it would be detrimental to the interests of a large proportion of the new electorate to admit as candidates persons who were not resident in the areas they sought to represent This view received support from some non-official witnesses, particularly in the Central Provinces, and very wide support in the Punjab from individual witnesses and associations representing rural interests It was pointed out to us that one object of constituting territorial electorates is to encourage the candidature of persons with knowledge of local interests and actually representative of such interests, and that the chance of securing such candidates among the rural population, hitherto unversed in politics, would be impaired by the competition of candidates from outside Much of the educative effect of the franchise would thus be lost, and the representative character of the councils impaired Our attention was further directed to the remarks on this subject in paragraph 84 of the Joint Report which contemplate the possible necessity of prescribing definite qualifications for candidates for rural seats

We have found no difficulty in maintaining the existing regulation as regards special constituencies, such as those provided for landholders With regard to the general and communal constituencies however, the majority of us, although on principle opposed to such a restriction anywhere, resolved, on a consideration of the evidence, to abandon uniformity, and to impose the restriction in the provinces of Bombay, the Punjab and the Central Provinces, but not in the remaining provinces The minority (Sir Frank Sly, Mr Hailey and Mr Hogg) desire that the restriction should be imposed in all provinces, and would be prepared, if necessary, to face a definition of the qualification which would secure that the candidate should be actually a resident of the constituency

Composition of Provincial Legislative Councils

Size of Provincial Legislative Councils

30 The preceding portion of this report will explain the principles which have guided us in framing the constitution of the legislative council of each province In our recommendations as to the number of members in the different councils we have not acted on any presumption as to the total strength suitable to each province, nor have we striven to attain a rigid uniformity between the provinces, but have endeavoured to provide adequate representation for each class and interest concerned, with due regard to the maintenance of the district as a territorial unit Social and economic conditions vary widely from province to province, and our proposals must not be judged in the light of the arithmetical proportion disclosed between the number of seats and the size of the population in the different areas with which we have had to deal Our

Governor General, 121. The details of our recommendations are given in appendix IX, and are summarized in the table below:—

Elected Members.

Province.	General.	Communal.		Landholders.			European Commerce and Planting.	Indian Commerce.	Total.
		Muhammadan.	Sikh.	Non-Muhammadan.	Muhammadan.	Sikh.			
Madras	7	2	..	1	..	..	1	1	12
Bombay	4	3	..	1	1	..	1	2	12
Bengal	5	3	..	1	1	..	2	1	13
United Provinces . .	6	3	..	1	1	..	1	..	12
Punjab	2	4	1	..	1	1	..	..	9
Bihar and Orissa . .	6	2	..	1	..	..	..	..	9
Central Provinces . .	4	1	..	..	..	..	..	..	5
Assam	1	1	..	..	..	..	1	..	3
Delhi	1	...	..	..	..	..	..	..	1

Reserved for Burma . 4

Total . 80

To these will be added fourteen representatives appointed by nomination and twenty-six officials (including seven ex-officio members). In view of the remarks contained in paragraph 198 of the Joint Report, we have felt ourselves precluded from proposing any precise allocation of the four seats reserved for Burma. It has been suggested to us that provision might suitably be made for one seat to represent Muhammadans, and one the Rangoon Chamber of Commerce; we content ourselves in the circumstances with recording the suggestions.

Methods of representation.

Direct and indirect election.

34. The question of the most suitable method of securing representation is discussed in paragraph 273 of the Joint Report. It is recognized that direct election is practicable in the case of special constituencies, such as those representing landholders or commercial associations; but, while indicating a preference for direct election in general constituencies, the report emphasises the difficulty of giving practical effect to this measure. We gave full and anxious consideration to this difficult problem. There are three main alternatives. The first is to adopt the franchise recommended by us for the provincial legislative councils, dividing the electorates for these councils into the number of constituencies required for the Indian Legislative Assembly. If we had felt it necessary to recommend a high

franchise qualification for the provincial councils, it is possible that the electorate for the Indian Legislative Assembly would not have been of unmanageable size, but if the franchise proposals made by us are adopted, each constituency for the latter assembly would consist approximately of 4 millions of population with 90,000 electors, and the area of each constituency would be of corresponding magnitude Whether such an arrangement may prove practicable in the future, it is difficult to foretell, but we are of opinion that for the present it is impossible to recommend it It would involve a great strain on the large number of inexperience electors who will now for the first time receive the suffrage, and would impose a very heavy burden on the agency charged with the organization of the new electoral machinery

Some of the difficulties above indicated could, no doubt be obviated by adopting, as an alternative, the proposal—strongly urged by many non official witnesses and numerous political associations—to prepare an electoral roll for the Indian Legislative Assembly on a substantially higher franchise than that proposed by us for the provincial councils It was pointed out to us that a direct system of election to the Imperial Council by Muhammadans was in force in the provinces of Madras, Bengal the United Provinces and Bihar and Orissa, but it was generally agreed that the present franchise was much too restricted to form a suitable basis The average number of electors would be only 184 for each seat A somewhat wider electorate exercises the right of election to the Muhammadan seats in the provincial legislative councils of these provinces and Bombay and the suggestion was made to us that this might be adopted for elections to the Indian Legislative Assembly This would give an average of 1,118 electors for each seat Besides the very restricted nature of this franchise a further objection lies in the composition of the electorate It is based on a high property qualification varying considerably from province to province but the attempt to give it a somewhat more liberal aspect has led to the inclusion of a striking variety of social, vocational titular and literary qualifications unsuitable in our opinion as a basis for the franchise even in provincial council elections In spite of these additions an electorate of this type would be dominated by landholders who would also receive separate representation in their special constituencies But our objection to this proposal is not limited to the difficulty of suggesting an improved franchise To enfranchise a large number of persons in the elections of the provincial legislative councils and at the same time to confine representation in the all India assembly to a small upper class appears to us not only illogical but politically undesirable A further difficulty though one possibly of less importance is that it involves the creation of a second electoral roll throughout India at a moment when the preparation of the provincial electoral rolls will strain severely the resources of the local governments The latter without exception after full consideration of the possible alternatives recommended indirect election We have thus found ourselves driven (a possibility foreseen in the Joint Report) to the only remaining alternative namely indirect election for all general and communal seats by the members of the provincial legislative councils We appreciate the objections to this method The danger of entrusting the election of

all-India representatives to a small number of electors is too obvious to need elaboration. It must, however, be borne in mind that the non-official members of the provincial councils will themselves, shortly before they are called upon to exercise this function, have been returned by a popular vote, and that they will perform this important duty in a representative capacity. We trust that, in the progress of time, a growing sense of political organization will enable indirect election to be superseded by some direct method, but for the present we see no alternative but to face the defects inherent in the indirect system.

If our proposal is accepted, the minimum numbers of electors to the seats in the Indian Legislative Assembly representative of general and communal interests will be as shown in the table below. To these will be added in practice the non-official nominated members.

Province	General.		Muhammadans.		Sikhs.		Total.	
	Number of seats.	Number of electors.	Number of seats.	Number of electors.	Number of seats.	Number of electors.	Number of seats.	Number of electors.
Madras	7	80	2	13	..	..	9	93
Bombay	4	60	3	27	..	..	7	87
Bengal	5	66	3	34	..	..	8	100
United Provinces	6	68	3	27	..	..	9	95
Punjab	2	22	4	30	1	9	7	61
Bihar and Orissa	6	56	2	17	..	..	8	73
Central Provinces	4	46	1	7	..	..	5	53
Assam	1	27	1	12	..	..	2	39

Method of election to seats representing special interests.

35. The representation of special interests can, as anticipated in paragraph 273 of the Joint Report, be suitably carried out by direct election. We propose accordingly that the persons entered in the electoral rolls prepared for the provincial council elections shall elect to the landholders' seats in the Indian Legislative Assembly. There appears to be no reason for creating a second electorate, with higher franchise qualifications, within these comparatively small bodies of electors. Election to the commerce seats will be by the members of certain chambers of commerce and similar bodies. The details of the electorate for each constituency will be found in appendix IX attached.

Qualifications of candidates.

36. We consider that candidature for the seats to which election is made by the members of the provincial legislative councils should not be restricted to persons who are already members of those councils, but should be extended to all persons who are qualified for election to the council of the province which they desire to represent. The difficulty felt by some of our members in regard to the qualification of residence (paragraph 29) will not arise in this case; the regulations should only provide that the candidate should be an elector in some constituency within the province.

As regards election to seats representing special interests, we consider that candidates should have the qualifications entitling them to stand for similar seats in the provincial councils, residence in the province (or, in the case of seats representing commerce, possession of a place of business within the province) being a necessary qualification in each case

37 In the elections for seats to which election is made by members of the provincial councils, we propose to adopt the system of cumulative voting This is at present in force in similar elections to the Imperial Legislative Council, and we see good grounds for retaining it

System of voting

38 In our recommendation as to the number of representatives by nomination, we have observed the proportion laid down in paragraph 273 of the Joint Report In view of the observations made in paragraph 275 of the same report, we have attempted no allocation of these seats One of our members (Mr Hogg), however, desires to express a strong opinion that at least one member should be nominated to represent the interests, other than commercial and industrial, of the European community It has further been suggested to us that a place might be found among the nominations for non-official representatives from the North-West Frontier Province and Baluchistan (*vide* paragraph 198 of the Joint Report)

Representatives by nomination

COUNCIL OF STATE

Composition of the Council

39 Proposals regarding the Council of State are contained in paragraph 277 of the Joint Report These proposals contemplate a council of 50 members, exclusive of the Governor General, consisting of not more than 25 officials including the members of the Executive Council, 4 non officials nominated by the Governor General, and 21 elected members Of the elected members it is suggested that 15 shall be chosen by the non official members of the provincial legislative councils each council returning two members, save the councils of Burma, the Central Provinces and Assam, which are to return one each The remaining six seats are intended to supplement the representation which the Muhammadans and the landed classes would otherwise secure, and also to provide for the representation of chambers of commerce It is proposed that each of the three latter interests should return two members directly to the Council of State

Proposals of the Joint Report.

40 We have experienced great difficulty in framing a scheme which would provide for the different interests mentioned, while preserving the proportion of seats between the provinces We have therefore ventured, at the risk of going outside our terms of reference, to recommend an increase from

Our proposals

21 to 24 in the number of elected seats. This increase will involve a total strength of 56 or, including the Governor General, 57. The details of the constitution which we propose are given in appendix X, and the proposals for the elected seats may be summarized as follows:—

Province.	General.	Muhammadan.	Sikh.	Landholders.	TOTAL.
Madras	2	1	..	..	3
Bombay	2	1	..	..	3
Bengal	2	1	..	½	3½
United Provinces	1	1	..	1	3
Punjab	1	1	1	..	3
Bihar and Orissa	1	1	..	½	2½
Central Provinces	1	½	..	..	1½
Assam	1	½	..	..	1½
TOTAL	11	7	1	2	21
Add for European chambers of commerce					2
Reserved for Burma					1
TOTAL					24

41. In the Joint Report it is proposed that the election should be by the members of the provincial legislative councils, save in the case of six seats (for Muhammadans, landholders and chambers of commerce) to which direct election is contemplated. We have already explained the difficulties which have made it impossible for us to recommend any method of direct election to the Indian Legislative Assembly. We have received no practical suggestion, nor have we succeeded in formulating any method, for obtaining direct election by Muhammadans (who number in the area included in our schemes over 54 millions) to the two seats specifically reserved for them in the Council of State. It would be possible to arrange for direct election to the two landholders' seats in the Council of State by the landholders to whom, in the various provinces, we propose to give the privilege of electing landholders' representatives in the provincial councils. We shrink, however, from adding one more election to the two elections (to the provincial councils and to the Indian Legislative Assembly) in which the landholders will have to participate. It appears to us that the least inconvenient course will be to provide, in all cases except the two seats reserved for European commerce, for election to the Council of State by the non-official members of the respective provincial councils, and we have framed our scheme on these lines. We have not overlooked the fact that our proposals for election to the Indian Legislative Assembly and to the Council of State involve two elections by the members of the provincial legislative councils, but we are unable to devise any alternative system which is not open to graver objection.

Method of representation.

42. We think that candidature to the Council of State should not be confined to members of the Indian Legislative Assembly and provincial legislative councils, as we see great advantages in the selection of suitable representatives

Qualifications of candidates.

ıtside those bodies We therefoıe rccommend that ıt should be left to e electors to choose any peıson qualıfied to be a member of a provıncıal gıslatıve councıl

CONCLUSION

43 In concludıng our ıeport we desıre to take thıs opportunıty of xpressıng our deep regret at the death of Sır Walteı Jeııed, whıle on s journey to Indıa wıth a vıew to actıng as Chaırman of thıs Commıttee ıs experıence ın regard to questıons relatıng to franchıse and electoral atters generally would have been ınvaluable ın conductıng our enquırıes ıd ın solvıng our problems

44 We desıre also to recoıd our oblıgatıons to the many officers of overnment who, ın a tıme of great straın, have undertaken the addıonal labouı ınvolved ın collectıng the ınformatıon wıthout whıch our ısk could not have been completed We must also record our ındebtedess to Mr P C Tallents, I C S , who has throughout acted as Secretary f the Commıttee, for the exceptıonal abılıty whıch he has applıed to the usıness of the Commıttee and for the skıll he has dısplayed ın makıng ll the arrangements for ouı touı and ın organızıng the necessary enquııes ın the provınces whıch we have vısıted

We have the honour to be,
Youı Excellency s most obedıent servants,

SOUTHBOROUGH,
Presıdent

F G SLY,
Deputy Chaırman

S AFTAB

W M HAILEY

S N BANERJEA

M N HOGG

V S SRINIVASAN

P C TALLENTS,
Secretary

Delhı, 22nd February 1919

B

21 to 24 in the number of elected seats. This increase will involve a total strength of 56 or, including the Governor General, 57. The details of the constitution which we propose are given in appendix X, and the proposals for the elected seats may be summarized as follows:—

Province.	General.	Muhammadan.	Sikh.	Landholders.	TOTAL.
Madras	2	1	..	..	3
Bombay	2	1	..	..	3
Bengal	2	1	..	½	3½
United Provinces	1	1	..	1	3
Punjab	1	1	1	..	3
Bihar and Orissa	1	1	..	½	2½
Central Provinces	1	½	..	..	1½
Assam	1	½	..	..	1½
TOTAL	11	7	1	2	21
Add for European chambers of commerce					2
Reserved for Burma					1
TOTAL					24

41. In the Joint Report it is proposed that the election should be by the members of the provincial legislative councils, save in the case of six seats (for Muhammadans, landholders and chambers of commerce) to which direct election is contemplated. We have already explained the difficulties which have made it impossible for us to recommend any method of direct election to the Indian Legislative Assembly. We have received no practical suggestion, nor have we succeeded in formulating any method, for obtaining direct election by Muhammadans (who number in the area included in our schemes over 54 millions) to the two seats specifically reserved for them in the Council of State. It would be possible to arrange for direct election to the two landholders' seats in the Council of State by the landholders to whom, in the various provinces, we propose to give the privilege of electing landholders' representatives in the provincial councils. We shrink, however, from adding one more election to the two elections (to the provincial councils and to the Indian Legislative Assembly) in which the landholders will have to participate. It appears to us that the least inconvenient course will be to provide, in all cases except the two seats reserved for European commerce, for election to the Council of State by the non-official members of the respective provincial councils, and we have framed our scheme on these lines. We have not overlooked the fact that our proposals for election to the Indian Legislative Assembly and to the Council of State involve two elections by the members of the provincial legislative councils, but we are unable to devise any alternative system which is not open to graver objection.

Method of representation.

42. We think that candidature to the Council of State should not be confined to members of the Indian Legislative Assembly and provincial legislative councils, as we see great advantages in the selection of suitable representatives

Qualifications of candidates.

outside those bodies We therefore recommend that it should be left to the electors to choose any person qualified to be a member of a provincial legislative council

Conclusion

43 In concluding our report we desire to take this opportunity of expressing our deep regret at the death of Sir Walter Jerred, while on his journey to India with a view to acting as Chairman of this Committee His experience in regard to questions relating to franchise and electoral matters generally would have been invaluable in conducting our enquiries and in solving our problems

44 We desire also to record our obligations to the many officers of government who, in a time of great strain, have undertaken the additional labour involved in collecting the information without which our task could not have been completed We must also record our indebtedness to Mr P C Tallents, I C S , who has throughout acted as Secretary of the Committee for the exceptional ability which he has applied to the business of the Committee and for the skill he has displayed in making all the arrangements for our tour and in organizing the necessary enquiries in the provinces which we have visited

We have the honour to be
Your Excellency s most obedient servants,

SOUTHBOROUGH
President

F G SLY,
Deputy Chairman

S AFTAB
W M HAILEY
S N BANERJEA
M N HOGG
V S SRINIVASAN

P C TALLENTS,
Secretary
Delhi, 22nd February 1919

APPENDIX I.

Madras Presidency.

STATISTICAL SUMMARY

	Area in square miles	Population
British Territory	142 330	41 405,404
Deduct excluded areas —		
The Agency Tracts in the districts of Ganjam, Vizagapatam, and Godavari	19,781	1,577,519
BALANCE	122,549	39 827,885

Male adults of 20 years of age and over		10 264,748
Do do do literate		2 098,216
Do do do literate in English		179 388
Hindus—		
Brahmans	1,221 907	
Non Brahmans	27,716 306	
Others*	6 377,168	
		35 315,381
Muhammadans		2,735,673
Indian Christians		1,137,208
Anglo-Indians		25 965
European British subjects		12,692
Others		600 966
TOTAL		39,827 885

Total population of municipalities and cantonments included in—	
(a) urban constituencies	99 232
(b) rural constituencies	1 667 246
Total population of rural areas	37,191,407

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* i e the main Panchama or untouchable castes for instance the Paraiyas Pallans and Valluvans in the Tamil districts the Malas and Madigas in the Telugu districts the Cherumans of Malabar and Holeyas of S Canara.

Towns of over 50,000 population—

1 Madras	518,660
2 Madura	134,130
3 Trichinopoly	123,512
4 Calicut	78,417
5 Kumbakonam	64,647
6 Tanjore	60,341
7 Negapatam	60,168
8 Salem	59,153
9 Cuddalore	56,574
10 Cocanada	54,110
11 Conjeeveram	53,864

CONSTITUTION OF EXISTING LEGISLATIVE COUNCIL.

Ex-officio members, including the Governor		5
Nominated members, of whom not more than 16 may be officials, and one shall be a non-official person selected from the Indian commercial community		21
Elected members—		
(1) by the corporation of Madras	1	
(2) by the university of Madras	1	
(3) by the non-official members of municipal councils and district and taluq boards	9	
(4) by *zamindars*	2	
(5) by landholders other than zamindars	3	
(6) by the Muhammadan community	2	
(7) by the Madras Chamber of Commerce	1	
(8) by the Madras Trades Association	1	
(9) by the planting community	1	
	—	21
TOTAL		47

To which may be added 2 expert members.

NUMBER OF ELECTORS.

Members of municipal councils and district and taluq boards	2,675
Zamindars	261
Other landholders	2,398
Muhammadans	1,329

Scheme for the constitution of and elections to the Provincial Legislative Council.

A.—FRANCHISE QUALIFICATIONS.

[In cases where property is held or payments made jointly by the members of a joint family or partnership, the family or partnership shall be adopted as a unit for deciding whether the qualification exists; and the vote shall be exercised in the case of a Hindu joint family by the manager thereof, and in other cases by the member or partner authorised in that behalf by the family or partnership concerned.]

General Disqualifications of Electors

No person will be qualified to vote at an election, if such person
- (a) is a female, or
- (b) is under 21 years of age, or
- (c) is not a British subject or the subject of any State in India, or
- (d) has been adjudged by a competent court to be of unsound mind.

Qualifications of Electors

(i) Urban Areas, i e , municipalities and cantonments.

Every person will be entered in the electoral roll of the constituency who has a place of residence in the area or within two miles of the boundary thereof, and

(1) in the case of Madras city
- (a) owns or occupies a house or a building of the annual rental value of not less than Rs 120, or
- (b) pays property or profession tax or both to the aggregate annual amount of Rs 8, or
- (c) pays income-tax, or
- (d) is a retired and pensioned officer (commissioned or non-commissioned) of the Indian army, or

(2) in the case of places other than Madras city
- (a) pays property or profession tax or both to the aggregate annual amount of not less than Rs 3, or
- (b) pays income-tax, or
- (c) is a retired and pensioned officer (commissioned or non-commissioned) of the Indian army, or
- (d) holds a qualification within the area which would entitle him to be entered in the rural roll if the area were not a municipality or cantonment

(ii) Rural Areas

Every person will be entered in the electoral roll of the constituency who has a place of residence in the area, and
- (a) is a registered pattadar or inamdar of lands either on raiyatwari or inamdari tenure with an annual rental value as calculated under section 64 of the Madras Local Boards Act of 1884 of not less than Rs 20, or
- (b) is a landholder as defined in section 3 (5) of the Madras Estates Land Act of 1908, whose estate bears the annual rental value as calculated under section 64 of the Madras Local Boards Act of 1884 of not less than Rs 20, or
- (c) is a tenant under a landholder as defined in section 3 (5) of the Madras Estates Land Act of 1908, the annual rental value of whose holding as evidenced by his patta or lease is not less than Rs 20, or a kanomdar in Malabar the Government assessment on whose holding is of like amount, or

(*d*) pays income tax, or

(*e*) is a retired and pensioned officer (commissioned or non-commissioned) of the Indian army.

In urban and rural constituencies two electoral rolls will be kept one for Muhammadans and one for non-Muhammadans. No European, Anglo-Indian or Indian Christian will be entered in either roll.

(*iii*) *European Constituency.*

Every person will be entered in the electoral roll of this constituency, who, being a European, has a place of residence in the presidency and has any of the qualifications for an elector in an urban or rural area.

(*iv*) *Anglo-Indian Constituency.*

Every person will be entered in the electoral roll of this constituency who, being an Anglo-Indian, has a place of residence in the presidency and has any of the qualifications prescribed for an elector in an urban or rural area.

(*v*) *Indian Christian Constituencies.*

Every person will be entered in the electoral roll of the constituency who, being an Indian Christian, has a place of residence in the constituency and has any of the qualifications prescribed for an elector in an urban or rural area.

(*vi*) *Zamindars' Constituencies.*

There will be four constituencies, constituted as follows:—

1. Ganjam, Vizagapatam and Godavari.
2. Kistna, Guntur, Nellore, North Arcot, Chittoor, Cuddapah, Kurnool, Bellary and Anantapur.
3. Madras, Chingleput, Salem, Coimbatore, South Canara, Malabar, the Nilgiris and South Arcot.
4. Tanjore, Trichinopoly, Madura, Ramnad and Tinnevelly.

Every zamindar holding an estate and every person in receipt of a malikana allowance from Government will be entered in the electoral roll of each constituency, if he has a place of residence in the constituency and

(*a*) possesses an annual income of not less than Rs. 3,000 derived from an estate situated within the presidency, or

(*b*) receives from Government a malikana allowance, the annual amount of which is not less than Rs. 3,000.

Provided that no zamindar shall have more than one vote in any one constituency though he may have more than one of the qualifications above described.

In each case income will be calculated in accordance with rules to be approved by the Governor in Council.

(vii) *Landholders' (other than Zamindars) Constituencies*

There will be three constituencies constituted as follows —

1 Ganjam Vizagapatam, Godavari, Kistna, Guntur, Nellore, North Arcot, Chittoor, Cuddapah, Kurnool, Bellary and Anantapur
2 Madras, Chingleput, Salem, Coimbatore, the Nilgiris, South Arcot, Tanjore, Trichinopoly, Madura, Ramnad and Tinnevelly
3 Malabar (including Anjengo and Tangasseri) and South Canara

Every landholder (not being a zamindar or tenant or sub tenant) will be entered in the electoral roll of each constituency who has a place of residence in the constituency and possesses an annual income, derived from land situated within the presidency and not forming an estate, of not less than Rs 1,000, to be calculated in accordance with rules to be approved by the Governor in Council

(viii) *University Constituency*

The representative of Madras University will be elected by the members of the senate and honorary fellows of that university having a place of residence in India

(ix) *Planting Constituency*

The representative of this constituency will be elected by the members of the United Planters' Association of So[illegible]ated Planters Associations in accordance wi[illegible] by the Governor in Council Provision [illegible] the Governor in Council to revise the method of election for this constituency from time to time in order to meet any alteration in the position or constitution of this association *

(x) *Commerce and Industry Constituencies*

One representative will be elected by the members of the Madras Chamber of Commerce

One representative will be elected by the members of the European Chambers of Commerce elsewhere than in Madras, *i e*, at Cocanada, Tuticorin, Cochin, Calicut, and Tellicherry

Two representatives will be elected by the members of the Southern India Chamber of Commerce

One representative will be elected by the members of the Madras Trades Association

The election will be conducted in each case in accordance with regulations to be approved by the Governor in Council

* The term member ' will include any person entitled to exercise the rights and privileges of membership on behalf and in the name of any firm or joint stock company or corporation registered as a member

Provision should be made to enable the Governor in Council to revise the methods of election for these constituencies from time to time in order to meet any alteration in the position or constitution of the electing bodies.*

B.—QUALIFICATIONS OF CANDIDATES.

No person will be eligible for election as a member of the Council, if such person

(*a*) is not a British subject or a subject of any State in India, or
(*b*) is an official, or
(*c*) is a female, or
(*d*) has been adjudged by a competent court to be of unsound mind. or
(*e*) is under 25 years of age, or
(*f*) is an uncertificated bankrupt or an undischarged insolvent, or
(*g*) has, in circumstances which, in the opinion of the Governor in Council, involve moral turpitude, been (1) dismissed from the service of Government or (2) sentenced by a criminal court to imprisonment (such sentence not having subsequently been reversed or remitted, or the offender pardoned), or
(*h*) has been dismissed or is under suspension from practising as a legal practitioner by order of any competent court:

Provided that in cases (*g*) and (*h*) the disqualification may be removed by an order of the Governor in Council in this behalf.

No person shall be eligible for election as a member of the Council to represent

(1) an urban or rural constituency, unless such person is registered as an elector in an urban or rural constituency within the presidency, or
(2) a European, Anglo-Indian, Indian Christian, zamindars', landholders' (other than zamindars), university, planting or commerce and industry constituency, unless such person is registered as an elector in the constituency for which he seeks election.

C.—PLURAL VOTING.

At each election to the Council no elector is to vote in more than one of the non-Muhammadan, Muhammadan, Indian Christian, European and Anglo-Indian constituencies; but an elector will be at liberty, in addition to voting in one of these constituencies, to exercise any votes to which he may be entitled for the university, zamindars', landholders' (other than zamindars), planting or commerce and industry seats.

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* See footnote on preceding page.

D.—CONSTITUTION OF THE COUNCIL

The Council will be constituted as follows —

Non Muhammadan urban seats	9	
Non Muhammadan rural seats	52	
	—	61
Muhammadan urban seats	2	
Muhammadan rural seats	11	
	—	13
European seat		1
[illegible]		1
[illegible]		3
[illegible]		1
[illegible]		4
[illegible] seats		3
[illegible]		1
Commerce and industry seats—		
Madras Chamber of Commerce	1	
Other European Chambers of Commerce	1	
Southern India Chamber of Commerce	2	
Madras Trades Association	1	
	—	5
Representatives appointed by nomination—		
(1) Depressed classes	2	
(2) Excluded tracts	2	
(3) Others	2	
	—	6
Official seats—		
Ex officio	4	
Nominated	15	
	—	19
TOTAL		118
To which may be added by the Governor not more than 2 experts (official or non-official)		2
		120

The *ex officio* members will be Governor, two members of the Executive Council and the Advocate General

E.—LIST OF CONSTITUENCIES

NON MUHAMMADAN URBAN SEATS—9

District	Number of seats	Male population in thousands	Estimated number of electors in thousands
Madras city	5	220	12
Madura city	1	59	10
Trichinopoly and Srirangam	1	57	3½
Calicut	1	23	1½
Tinnevelly and Palamcottah	1	31	3
TOTAL	9	390	30

Non-Muhammadan rural seats—52.

District	Number of seats	Male population in thousands.	Estimated number of electors in thousands.
Ganjam	2	865	17
Vizagapatam	3	1,038	24
Godavari	3	691	31
Kistna	4	931	55
Guntur	4	731	43
Nellore	2	602	20
Cuddapah	1	392	14
Chittoor	1	596	11
Bellary	1	440	15
Anantapur	1	451	8
Kurnool	1	389	14
Chingleput	2	674	22
North Arcot	3	897	29
South Arcot	3	1,106	21
Salem	3	817	21
Coimbatore / The Nilgiris	3	1,061	15*
Malabar	2	957	11
South Canara	1	461	11
Tanjore	4	1,023	35
Trichinopoly	1	893	9
Madura	3	820	29
Ramnad	2	700	11
Tinnevelly	2	703	15
Total	52	17,237	481

Muhammadan urban seats—2.

Madras	1	31	1½
Madura, Trichinopoly and Srirangam	1	13	½
Total	2	44	2

Muhammadan rural seats—11.

Ganjam	1	62	2
Vizagapatam			
Godavari			
Kistna			
Guntur	1	133	1½
Nellore			
Chittoor			
Cuddapah	1	202	2½
Kurnool			
Bellary			
Anantapur			

* Since this Appendix was passed by the Committee, it has been ascertained that this figure should be 25 instead of 15.

District	Number of seats	Male population in thousands	Estimated number of electors in thousands
North Arcot Chingleput	1	73	2½
South Arcot Salem The Nilgiris Coimbatore	1	82	2¼
Tanjore	1	57	2½
Madura Trichinopoly	1	56	2
Ramnad Tinnevelly	1	97	2½
Malabar South Canara	3	546	5
TOTAL	11	1 308	23

INDIAN CHRISTIAN SEATS—3

District	Number of seats	Male population in thousands	Estimated number of electors in thousands
Ganjam Vizagapatam Godavari Kistna Guntur Nellore Cuddapah Kurnool Anantapur Bellary Chittoor	1	154	1
Chingleput Madras South Arcot North Arcot Salem Coimbatore The Nilgiris Malabar South Canara	1	169	3
Tanjore Trichinopoly Madura Ramnad Tinnevelly	1	233½	2
TOTAL	*3*	*556½*	*6*

Where more seats than one are assigned to a district, the Governor in Council may either maintain it as one plural member constituency or divide it into single member constituencies as may be found expedient Madras city will be a plural member constituency

The total number of electors for the above constituencies is estimated roughly as follows:—

Urban—	
Non-Muhammadan (9 seats)	30,000
Muhammadan (2 seats)	2,000
Rural—	
Non-Muhammdan (52 seats)	481,000
Muhammadan (11 seats)	23,000
Indian Christian (3 seats)	6,000
TOTAL	542,000

The urban electorate will amount to 7·4 per cent. of the male population in the urban constituencies, the rural electorate to 2·7 per cent. of the male population in the rural constituencies, and the total electorate to 2·8 per cent. of the total male population or 1·3 per cent. of the total population.

Explanatory Notes.

1. The word "pattadar" used in the description of the franchise qualifications is the technical term for a cultivator holding land direct from Government under *the raiyatwari system of settlement. Similarly the word "inamdar"* means that he holds wholly or partially free of revenue. A "kanomdar" is the technical term for a peculiar class of landholder in Malabar.

2. The proposed qualifications for the zamindars' and landholders' (other than zamindars) constituencies are the same as those at present in force.

3. The European Chambers of Commerce and the Madras Trades Association represent mainly European commerce and trade, and the Southern India Chamber of Commerce represents *Indian Commerce and trade.*

4. The districts grouped together in the first Indian Christian constituency represent a distinct language area which cannot conveniently be grouped with any other area.

APPENDIX II.

Bombay Presidency including Sind.

STATISTICAL SUMMARY

	Area in square miles	Population
British territory (other than Aden)	122 899	19,580 312
Deduct excluded areas	*Nil*	*Nil*
BALANCE	122,899	19,580,312

NOTE —Aden is excluded from the scheme

Male adults of 20 years of age and over	5,578,257
Male adults of 20 years of age and over literate	915,044
Male adults of 20 years of age and over literate in English	131,940

Hindus—		
Brahmans	722,339	
Marathas and allied castes	5,194,072	
Lingayets	1,064 955	
Other non Brahmans	7,359,641	
Others*	577,216	
		14,918,223
Muhammadans		3,950,469
Animists		170,351
Indian Christians		190,903
Anglo-Indians		8 871
European British subjects		25,235
Others		316 260
TOTAL		19,580 312

Total population of municipalities, cantonments and notified areas included in—	
(*a*) urban constituencies	1,683 194
(*b*) rural constituencies	789,568
Total population of rural areas	17,107,550

* i e castes which are ordinarily denied access to a Hindu temple *Vide* page 66 Part I Bombay Census Report 1911 These castes are generally described as untouchables.

Towns of over 50,000 population—

Bombay*	979,445
Ahmedabad	216,777
Poona	158,856
Karachi	151,903
Surat	114,868
Hyderabad (Sind)	75,952
Hubli	61,440
Sholapur†	61,345
Shikarpur	53,944

CONSTITUTION OF EXISTING LEGISLATIVE COUNCIL.

Ex-officio members, including the Governor		5
Nominated members of whom not more than 14 may be officials		21
Elected members—		
(1) by the municipal corporation of Bombay City	1	
(2) by the university of Bombay	1	
(3) by the sardars of the Deccan	1	
(4) by the sardars of Gujarat	1	
(5) by the jagirdars and zamindars of Sind	1	
(6) by municipal commissioners	4	
(7) by district local boards	4	
(8) by the Muhammadan community	4	
(9) by the Indian commercial community through the Indian Merchants' Bureau and the Bombay Native Piece-goods Merchants' Association	1	
(10) by the Bombay Chamber of Commerce	1	
(11) by the Karachi Chamer of Commerce	1	
(12) by the millowners' associations of Bombay and of Ahmedabad alternately	1	
		21
TOTAL		47

To which may be added two expert members.

NUMBER OF ELECTORS.

Municipal corporation of Bombay city	72
University of Bombay	193
Sardars of the Deccan	111
Sardars of Gujarat	39
Jagirdars and zamindars of Sind	950
Municipal commissioners	272
Members of district local boards	200
Muhammadan community	5,613
Indian commercial community	20
Bombay Chamber of Commerce	127
Karachi Chamber of Commerce	56
Millowners' associations	151

* It is estimated that the present population of Bombay City is 1,200,000.
† It is estimated that the present population of Sholapur is 90,000.

Scheme for the constitution of and elections to the Provincial Legislative Council.

A.—FRANCHISE QUALIFICATIONS

[In cases where property is held or payments made jointly by the members of a joint family or partnership, the family or partnership shall be adopted as unit for deciding whether the qualification exists, and the vote shall be exercised in the case of a Hindu joint family by the manager thereof, and in other cases by the member or partner authorised in that behalf by the family or partnership concerned.]

GENERAL DISQUALIFICATIONS OF ELECTORS

No person will be qualified to vote at any election, if such person

(a) is a female, or

(b) under 21 years of age or

(c) is not a British subject or the subject of any State in India, or

(d) has been adjudged by a competent court to be of unsound mind.

QUALIFICATIONS OF ELECTORS

(i) *Urban areas, i.e., municipalities, cantonments, and notified areas.* Every person will be entered in the electoral roll of the constituency who has a place of residence in the area or within two miles of the boundary thereof, and

(a) owns or occupies a house or building paying in Bombay city an annual rental of not less than Rs. 120, or in Karachi city of not less than Rs. 60, or

(b) in all other municipalities, cantonments and notified areas of the presidency proper,

(1) where a house-tax is levied on the estimated annual rental value, owns or occupies a house or building of which the annual rental value is not less than Rs. 36, or in the ditricts of Panch Mahals or Ratnagiri Rs. 24, or, where a house tax is levied on the estimated capital value, owns or occupies a house or building of which the capital value is estimated at not less than Rs. 1,500 or in the districts of Panch Mahals and Ratnagiri Rs. 1,000, or

(2) where a house tax is not levied pays municipal rates other than octroi or toll of not less than Rs. 3 per annum, or

(c) in the municipalities, cantonments and notified areas of Sind other than Karachi city, owns or occupies a house or building of the annual rental value of not less than Rs. 36, or

(d) pays income-tax, or

(e) is a retired and pensioned officer (commissioned or non commissioned) of the Indian army, or

(f) holds a qualification within the area which would entitle him to be entered in the rural roll if the area were not a municipality, cantonment, or notified area.

(ii) Rural areas.

Every person will be entered in the electoral roll of the constituency who has a place of residence in the area, and

(a) holds, either in his own right or as tenant, alienated or unalienated land assessed at or of the assessable value of

(i) not less than Rs. 16 land revenue in the districts of Panch Mahals and Ratnagiri, or

(ii) not less than Rs. 32 land revenue elsewhere in the presidency proper, or

(b) holds land in the province of Sind otherwise than as a tenant, on which, during any one of the five years preceding the preparation of the electoral roll, an assessment of not less than Rs. 32 land revenue has been paid, or in the Upper Sind Frontier district Rs. 16, or

(c) pays income-tax, or

(d) is a retired and pensioned officer (commissioned or non-commissioned) of the Indian army.

In urban and rural constituencies two electoral rolls will be kept, one for Muhammadans and one for non-Muhammadans. No European will be entered in either roll.

(iii) European Constituencies.

Every person will be entered in the electoral roll of each constituency who, being a European, has a place of residence in the constituency and has any of the qualifications for an elector in an urban or rural constituency. One seat will be allotted to Bombay city, and the other to the rest of the presidency.

(iv) Landholders' Constituencies.

There will be three constituencies, one for the sardars of the Deccan, the second for the sardars of Gujarat, and the third for the jagirdars and zamindars of Sind.

The election to the first seat will be made by the sardars of the Deccan whose names appear in the list for the time being in force under the resolution of the Government of Bombay (Political Department) No. 2363, dated the 23rd July 1867.

The election to the second seat will be made by the sardars of Gujarat whose names appear in the list for the time being in force under the resolution of the Government of Bombay (Political Department), No. 6265, dated the 21st September 1909.

The election to the third seat will be made by

(a) jagirdars of the first or second class in Sind, and

(b) zamindars in Sind who, for the three years preceding the preparation of the electoral roll, have paid not less than Rs. 1,000 per annum as ordinary land revenue.

Provided that no landholder shall have more than one vote in any one constituency though he may have more than one of the qualifications above described

(v) *University Constituency*

The representative of the Bombay University will be elected by the members of the senate and honorary fellows of that university, having a place of residence in India

(vi) *Commerce and Industry Constituencies*

Two representatives will be elected by the members of the Bombay Chamber of Commerce

One representative will be elected by the members of the Karachi Chamber of Commerce

One representative will be elected by the members of the Bombay Trades Association

One representative will be elected by the members of the Bombay Millowners' Association

One representative will be elected by the members of the Ahmedabad Millowners' Association

One representative will be elected by the members of the Indian Merchants' Chamber and Bureau

One representative will be elected to represent the cotton trade as soon as the Governor in Council is satisfied that a central association has been formed which adequately represents the trade and to which the right of election may properly be given Until then the representative of this trade should be appointed by nomination

The election will be conducted in each case in accordance with regulations to be approved by the Governor in Council Provision should be made to enable the Governor in Council to revise the method of election for these constituencies from time to time, in order to meet any alteration in the position or constitution of these bodies *

B —QUALIFICATIONS OF CANDIDATES

No person will be eligible for election as a member of the Council, if such person

(a) is not a British subject or a subject of any State in India, or
(b) is an official, or
(c) is a female, or
(d) has been adjudged by a competent court to be of unsound mind, or
(e) is under 25 years of age, or
(f) is an uncertificated bankrupt or an undischarged insolvent, or

* The term member will include any person entitled to exercise the rights and privileges of membership on behalf and in the name of any firm or joint stock company or corporation registered as a member

(*g*) has, in circumstances which, in the opinion of the Governor in Council, involve moral turpitude, been (*i*) dismissed from the service of Government, or (*ii*) sentenced by a criminal court to imprisonment (such sentence not having subsequently been reversed or remitted, or the offender pardoned), or

(*h*) has been dismissed or is under suspension from practising as a legal practitioner by order of any competent court, or

(*i*) is *not registered* as a voter in the constituency for which he seeks election.

Provided that in cases (*g*) and (*h*) the disqualification may be removed by an order of the Governor in Council in this behalf.

C.—PLURAL VOTING.

At each election to the Council no elector is to vote in more than one of the non-Muhammadan, Muhammadan and European constituencies, but an elector will be at liberty, in addition to voting in one of these constituencies, to exercise any votes to which he may be entitled for landholders', university or commerce and industry seats.

D.—CONSTITUTION OF THE COUNCIL.

The Council will be constituted as follows:—

Non-Muhammadan urban seats	11	
Non-Muhammadan rural seats	35	
	—	46
Muhammadan urban seats	5	
Muhammadan rural seats	22	
	—	27
European seats		2
Landholders' seats		3
University seat		1
Commerce and industry seats—		
Bombay Chamber of Commerce	2	
Karachi Chombers of Commerce	1	
Bombay Trades' Association	1	
Bombay Millowners' Association	1	
Ahmedabad Millowners' Association	1	
Indian Merchants' Chamber and Bureau	1	
Cotton trade	1	
	—	8
Representatives appointed by nomination—		
(1) Anglo-Indians	1	
(2) Indian Christians	1	
(3) Depressed classes	1	
(4) Labour	1	
(5) Others	2	
	—	6

Official seats—		
Ex-officio	4	
Nominated	14	
		18
TOTAL		111
To which may be added by the Governor not more than two experts (official or non-official)		2
		113

The *ex-officio* members will be the Governor, two members of the Executive Council and the Advocate-General.

E.—LIST OF CONSTITUENCIES.

NON-MUHAMMADAN URBAN SEATS—11.

District	Number of seats	Male population in thousands	Estimated number of electers in thousands
Bombay City	6	521	61½
Ahmedabad	1	93	16
Karachi	1	49	13
Poona	1	74	15
Surat	1	47	7
Sholapur	1	24	6½
	11	808	119

NON-MUHAMMADAN RURAL SEATS—35.

District	Number of seats	Male population in thousands	Estimated number of electers in thousands
Ahmedabad	2	291	20
Broach	1	123	15½
Kaira	2	337	26
Panch Mahals	1	154	8
Surat	2	253	21
Thana	2	434	21
NORTHERN DIVISION	10	1,592	111½
Ahmednagar	2	452	19
East Khandesh	3	471	33½
West Khandesh	1	277	20
Nasik	2	431	17
Poona	2	442	16½
Satara	3	520	18½
Sholapur	1	338	13
CENTRAL DIVISION	14	2,931	137½

District.	Number of seats.	Male population in thousands.	Estimated number of electors in thousands.
Belgaum	2	441	22
Bijapur	1	383	14
Dharwar	3	451	33
Kanara	1	206	13
Kolaba	1	281	16
Ratnagiri	1	517	12½
SOUTHERN DIVISION	9	2,279	110½
Hyderabad, Thar and Parkar, Nawabshah	1	253	21
Karachi, Larkhana, Sukkur, Upper Sind Frontier	1	185	25½
SIND*	2	438	46½
TOTAL	35	7,240	406

MUHAMMADAN URBAN SEATS—5.

District.	Number of seats.	Male population in thousands.	Estimated number of electors in thousands.
Bombay City	2	119	13½
Karachi	1	42	6½
Ahmedabad and Surat	1	37	6
Poona and Sholapur	1	19	4
	5	217	30

MUHAMMADAN RURAL SEATS—22.

District.	Number of seats.	Male population in thousands.	Estimated number of electors in thousands.
Ahmedabad, Broach, Kaira, Panch Mahals, Surat, Thana	3	142	17
NORTHERN DIVISION	3	142	17
Ahmednagar, East Khandesh, West Khandesh, Nasik, Poona, Satara, Sholapur	3	173	8
CENTRAL DIVISION	3	173	8

* The number of electors in Sind is only roughly estimated.

District	Number of seats	Male population in thousands	Estimated number of electors in thousands
Belgaum Bijapur Dharwar Kanara Kolaba Ratnagiri	3	224	9
Southern Division	3	224	9
Hyderabad	2	239	13
Karachi	2	177	6½
Larkhana	3	303	14
Sukkur	2	227	5
Thar and Parkar	2	139	14
Nawabshah	1	196	6½
Upper Sind Frontier	1	130	5
Sind*	13	1 411	64
Total	22	1 950	98

Where more seats than one are assigned to a district the Governor in Council may either maintain it as one plural member constituency or divide it into single member constituencies as may be found expedient In Bombay city the voting will be on the cumulative principle as at present

The total number of electors for the above constituencies is estimated roughly as follows —

Urban—	
Non Muhammadan (11 seats)	119 000
Muhammadan (5 seats)	30 000
Rural—	
Non Muhammadan (35 seats)	406 000
Muhammadan (22 seats)	98 000
Total	653 000

The urban electorate will amount to 14 5 per cent of the male population in the urban constituencies, the rural electorate to 5 5 per cent of the male population in the rural constituencies and the total electorate to 6 4 per cent of the total male population or 3 3 per cent of the total population

Explanatory Notes

1 The term notified area denotes a small town with a simplified form of municipal self government

2 A house tax is levied in all towns in the presidency proper except five of minor importance In Sind on the other hand a house tax is levied in only three

* See note on previous page

municipalities and in the remaining six no tax is levied at all except octroi. We recommend, therefore, that the urban franchise should be based generally on the annual rental value of houses.

3. In the districts of Panch Mahals and Ratnagiri, a lower qualification of land revenue and a lower urban qualification is proposed in view of the fact that the assessment is light owing to their backward condition.

4. Separate qualifications for rural areas are necessary in the province of Sind, as the land revenue is fluctuating, the amount paid being dependent on the area actually cultivated each year, which varies largely with the supply of water available from irrigation canals. For this reason, it is proposed to base the qualification on the payment made during any one of the five years preceding the preparation of the electoral roll. A lower rate of land revenue payment is recommended in the case of the Upper Sind Frontier district to correspond with the difference in the incidence of assessment.

5. The qualifications proposed for the landholders' constituencies are the same as those at present in force.

6. The *Bombay and Karachi Chambers of Commerce* and the Bombay Trades Association represent interests mainly European. The Bombay and Ahmedabad Millowners' Associations and the Indian Merchants' Bureau and Chamber represent interests mainly Indian.

APPENDIX III.

Bengal Presidency.

STATISTICAL SUMMARY

	Area in square miles	Population
British territory	78,699	45,483,077
Deduct excluded areas —		
(a) Darjeeling	1,164	265,550
(b) Chittagong Hill Tracts	5,138	153,830
BALANCE	72 397	45 063,697

Male adults of 20 years of age and over	11,696 859
Male adults of 20 years of age and over literate	2,333,112
Male adults of 20 years of age and over literate in English	314 362

Hindus—		
Brahmans	1,233 825	
Non Brahmans	8,991,868	
Others*	9,948,244	
		20,173,937
Muhammadans		23 975,171
Indian Christians		78,984
Anglo Indians		18,902
European British subjects		19,707
Others		796,996
TOTAL		45,063,697

Total population of the municipalities and cantonments included in—	
(a) urban constituencies	1,886 014
(b) rural constituencies	1,043,441
Total population of rural areas	42,134,242

* The term others include the castes and tribes constituting more than 1 per mille of the total population and classed as Hindus in the Census which are denied access to the interior of ordinary Hindu temples and fall within categories 7 8 9 or 10 at page 232 Part I Census Report of Bengal Bihar and Orissa and Sikkim 1911 The castes and tribes are generally described as untouchables

Towns of over 50,000 population—

Calcutta	896,067
Howrah	179,006
Dacca	108,551
Maniktala	53,767
Bhatpara	50,414

CONSTITUTION OF EXISTING LEGISLATIVE COUNCIL.

Ex-officio members (including the Governor)		5
Elected members—		
(1) by the *corporation* of Calcutta	1	
(2) by the university of Calcutta	1	
(3) by the municipal commissioners of certain specified municipalities	5	
(4) by district boards and local boards	5	
(5) by the landholders of the Presidency, Burdwan, Rajshahi and Dacca divisions	4	
(6) by the municipal commissioners of the municipalities in the Chittagong division and the landholders of the Chittagong division alternately	1	
(7) by the Muhammadan community	5	
(8) by the Bengal Chamber of Commerce	2	
(9) by the Calcutta Trades Association	1	
(10) by the commissioners of the port of Chittagong	1	
(11) by certain commissioners of the corporation of Calcutta	1	
(12) by the tea planting community	1	
		28
Nominated members, of whom not more than 16 may be officials and 2 shall be non-officials, to be selected one from the Indian commercial community and one from the European commercial community, exclusive of the tea planters' community, and carrying on business outside Calcutta and Chittagong		20
TOTAL		53

To which may be added 2 expert members.

NUMBER OF ELECTORS.

Municipal commissioners of certain specified municipalities	1,134
District boards and local boards	1,115
Landholders of the divisions other than Chittagong	576
Municipal commissioners and landholders of the Chittagong division	118
Muhammadan community	6,346

Scheme for the constitution of and elections to the Provincial Legislative Council.

A.—FRANCHISE QUALIFICATIONS.

[In cases where property is held or payments made jointly by the members of a joint family or partnership, the family or partnership shall

be adopted as a unit for deciding whether the qualification exists and the vote shall be exercised in the case of a Hindu joint family by the manager thereof and in other cases by the member or partner authorized in that behalf by the family or partnership concerned]

General disqualifications of Electors

No person will be qualified to vote at any election if such person—
(a) is a female or
(b) is under 21 years of age, or
(c) is not a British subject or the subject of any State in India or
(d) has been adjudged by a competent court to be of unsound mind

Qualifications of Electors

(i) Urban and Rural Constituencies

Every person will be entered in the electoral roll of the constituency who has a place of residence in the constituency or, in the case of urban constituencies within two miles of the boundary thereof and

(a) in Calcutta is qualified for a municipal vote or in Howrah or Cossipore Chitpur pays municipal taxes or fees of not less than Rs 3 per annum or in other municipal or cantonment areas pays municipal or cantonment taxes or fees of not less than Rs 1 8 0 per annum or
(b) pays as road and public works cesses not less than Re 1 per annum or
(c) pays as chaukidari tax under Act VI of 1870 not less than Rs 2 per annum or
(d) pays income tax or
(e) is a retired and pensioned officer (commissioned or non commissioned) of the Indian army

Separate electoral rolls will be kept for Muhammadans Europeans and Anglo Indians all other electors will be entered in a general roll No Muhammadan European or Anglo Indian elector will be entered in the general roll

(ii) European Constituencies

Every person will be entered in the electoral roll of the constituency who being a European has a place of residence in the constituency and has any of the qualifications for an elector in an urban or rural constituency One seat will be allotted to Calcutta city and the other to the rest of the presidency

(iii) Anglo Indian Constituency

Every person will be entered in the electoral roll of this constituency who, being an Anglo Indian has a place of residence in the presidency and possesses any of the qualifications for an elector in an urban or rural constituency

(iv) Landholders' Constituencies.

There will be five constituencies, one for each division. Every landholder will be entered in the electoral roll of each constituency who has a place of residence in the constituency, and

(a) in the case of the Burdwan and Presidency divisions holds in his own right as proprietor one or more estates or shares of estates, and pays in respect thereof land revenue amounting to not less than Rs. 6,000, or road and public works cesses amounting to not less than Rs. 1,500 per annum, or

(b) in the case of the Rajshahi, Dacca and Chittagong divisions holds in his own right as proprietor one or more estates or shares of estates or one or more permanent tenures or shares of such tenures held direct from such proprietor, and pays in respect thereof land revenue amounting to not less than Rs. 3,000 or road and public works cesses amounting to not less than Rs. 750 per annum, or

(c) holds the title recognised or conferred by Government of Raja or Nawab, or any higher title.

Provided that no landholder shall have more than one vote in any one constituency though he may have more than one of the qualifications above described.

(v) University Constituency.

The representative of the Calcutta university will be elected by the members of the senate and the honorary fellows of that university having a place of residence in India.

The representative of the Dacca university, when constituted, will be elected in accordance with regulations to be approved by the Governor-General in Council. For the present the seat will be in abeyance.

(vi) Commerce and Industry Constituencies.

Four representatives will be elected by the members of the Bengal Chamber of Commerce.

One representative will be elected by the members of the Indian Jute Mills Association.

One representative will be elected by the members of the Calcutta Baled Jute Association.

One representative will be elected by the members of the Indian Mining Association.

One representative will be elected by the members of the Indian Tea Association.

One representative will be elected by managers of tea-gardens in which the area under cultivation of tea is not less than one hundred acres.

Two representatives will be elected by the members of the Calcutta Trades Association.

One representative will be elected by the members of the Inland Water Transport Board

One representative will be elected by the members of the Bengal National Chamber of Commerce

One representative will be elected by the members of the Marwari Association of Calcutta

One representative will be elected by the members of the Mahajana Sabha of Calcutta

The voting will be conducted in every case in accordance with regulations to be approved by the Governor in Council Provision should be made to enable the Governor in Council to revise the method of election for these constituencies from time to time in order to meet any alteration in the position or constitution of these bodies *

B —QUALIFICATIONS OF CANDIDATES

No person will be eligible for election as a member of the Council, if such person

(*a*) is not a British subject or a subject of any State in India, or

(*b*) is an official, or

(*c*) is a female, or

(*d*) has been adjudged by a competent court to be unsound mind, or

(*e*) is under 25 years of age, or

(*f*) is an uncertificated bankrupt or an undischarged insolvent, or

(*g*) has in circumstances which in the opinion of the Governor in Council, involve moral turpitude, been (*i*) dismissed from the service of Government, or (*ii*) sentenced by a criminal court to imprisonment (such sentence not having subsequently been reversed or remitted, or the offender pardoned), or

(*h*) has been dismissed or is under suspension from practising as a legal practitioner by order of any competent court

Provided that in cases (*g*) and (*h*) the disqualification may be removed by an order of the Governor in Council in this behalf

No person shall be eligible for election as a member of the Council to represent

(1) an urban or rural constituency unless such person is registered as an elector in an urban or rural constituency within the presidency, or

(2) a European, Anglo-Indian, landholders', university or commerce and industry constituency, unless such person is registered as an elector in the constituency for which he seeks election

* The term "member" will include any person entitled to exercise the rights and privileges of membership on behalf and in the name of any firm or joint stock company or corporation registered as a member

MUHAMMADAN URBAN SEATS—6.

District.	Number of seats.	Male population in thousands.	Estimated number of electors in thousands.
Calcutta	2	175	4
Municipalities of Hooghly	1	17	1
Municipalities of Howrah		31	2
Municipalities and cantonments of the 24-Parganas	2	103	7
Dacca	1	26	4
TOTAL	6	352	18

MUHAMMADAN RURAL SEATS—28.

District.	Number of seats.	Male population in thousands.	Estimated number of electors in thousands.
Burdwan	1	147	
Birbhum		110	
Bankura		26	12
Midnapore	1	96	
Howrah and Hooghly (non-municipal)		145	9
BURDWAN DIVISION	2	524	21
24-Parganas (non-municipal)	1	364	23
Nadia	1	484	10
Murshidabad	1	350	6
Jessore	1	563	20
Khulna	1	357	12
PRESIDENCY DIVISION	5	2,118	71
Dacca (excluding Dacca town)	2	921	20
Mymensingh	3	1,705	28
Faridpur	1	685	23
Bakargunj	3	869	70
DACCA DIVISION	9	4,180	141
Chittagong	2	519	31
Tipperah	2	899	25
Noakhali	1	494	23
CHITTAGONG DIVISION	5	1,912	79
Rajshahi	2	582	34
Dinajpur	1	430	16
Jalpaiguri	1	128	9
Rangpur	1	812	26
Bogra	1	409	9
Pabna		542	12
Malda	1	248	4
RAJSHAHI DIVISION	7	3,151	110
TOTAL	28	11,885	422

EUROPEAN SEATS—2.

Calcutta city	1
The remainder of the Presidency	1

Where more seats than one are assigned to a district, the district will, so far as circumstances permit, be divided into the necessary number of single member constituencies by the Governor in Council

The total number of electors for the above constituencies is estimated roughly as follows —

Urban—	
Non-Muhammadan (11 seats)	88,000
Muhammadan (6 seats)	18 000
Rural—	
Non-Muhammadan (30 seats)	700,000
Muhammadan (28 seats)	422 000
TOTAL	1,228,000

The urban electorate will amount to 8 5 per cent of the male population in the urban constituencies, the rural electorate to 5 1 per cent of the male population in rural constituencies and the total electorate to 5 3 per cent of the total male population or 2 7 per cent of the total population

Explanatory Notes

1 The variations in the amount of the municipal tax in the qualifications proposed for urban areas follow the existing municipal franchise

2 As the land revenue is permanently settled (with few exceptions), the payment of local rates (road and public works cesses), which are based on a periodical rental valuation of land, is proposed as a qualification for rural areas A payment of Re 1 as road and public works cesses connotes a rental of Rs 32 per annum

3 The chaukidari tax [*vide* sub-clause (c) of the "qualifications for urban and rural constituencies "] is levied under Bengal Act VI of 1870 on owners and occupiers of houses in villages Its assessment and collection is in the hands of small local committees and the proceeds are devoted to the maintenance of a force of village watchmen The qualification has been adopted as a means of enfranchising classes such as village traders, who do not hold agricultural land

4 The qualifications for landholders' constituencies follow the existing regulations

5 The commerce and industry seats represent interests mainly European with the exception of the Bengal National Chamber of Commerce, the Marwari Association and the Mahajana Sabha which represent interests mainly Indian

APPENDIX IV.

United Provinces of Agra and Oudh.

STATISTICAL SUMMARY.

	Area in square miles.	Population.
British Territory—		
Agra	83,109	34,624,040
Oudh	24,158	12,558,004
TOTAL .	107,267	47,182,044

NOTE.—It is not proposed to exclude any area from the scheme of franchise.

Male adults of 20 years of age and over	13,345,757
Male adults of 20 years of age and over literate	1,097,097
Male adults of 20 years of age and over literate in English .	89,876

Hindus—		
Brahmans	4,585,413	
Non-Brahmans	25,418,390	
Others*	10,118,435	
		40,122,238
Muhammadans		6,658,373
Indian Christians		138,189
Anglo-Indians		8,094
European British subjects		32,791
Others		222,359
TOTAL .		47,182,044

Total population of the municipalities, cantonments, notified areas and town areas included in—

(*a*) urban constituencies	1,462,765
(*b*) rural constituencies	2,431,007
Total population of rural areas	43,288,272

* *i.e.*, untouchable castes, *vide* Groups XI and XII at pages 231, 232, Part I of the United Provinces Census Report, 1901.

Towns of over 50,000 population—

Lucknow	259,798
Benares	203,804
Agra	185,449
Cawnpore	178,557
Allahabad	171,697
Bareilly	129,462
Meerut	116,227
Moradabad	81,168
Shahjahanpur	71,778
Jhansi	70,208
Aligarh	64 825
Saharanpur	62,850
Farukhabad	59,647
Muttra	58,183
Gorakhpur	56,892
Fyzabad-cum Ajodhya	54 655

CONSTITUTION OF EXISTING LEGISLATIVE COUNCIL

Ex officio member (the Lieutenant Governor)		1
Nominated members, of whom not more than 20 may be officials, and one shall be a non-official person to be selected from the Indian commercial community		26
Elected members—		
(1) by the University of Allahabad	1	
(2) by the municipal boards of groups A (Meerut, Agra Allahabad and Lucknow) and B (Bareilly, Cawnpore Benares and Fyzabad)	4	
(3) by the district and municipal boards of Meerut Agra Rohilkhand Allahabad Jhansi, Benares Gorakhpur, Lucknow and Fyzabad Divisions, one each division	9	
(4) by the landholders	2	
(5) by the Muhammadan community	4	
(6) by the Upper India Chamber of Commerce	1	
		21
TOTAL		48

To which may be added 2 expert members

NUMBER OF ELECTORS

Municipal boards groups A and B	182
District and municipal boards of the nine divisions	286
Landholders	535
Muhammadans	1 771

Scheme for the constitution of and elections to the Provincial Legislative Council.

A —FRANCHISE QUALIFICATIONS

[In cases where property is held or payments made jointly by the members of a joint family or partnership, the family or partnership shall

be adopted as a unit for deciding whether the qualification exists; and the vote shall be exercised in the case of a Hindu joint family by the manager thereof and in other cases by the member or partner authorized in that behalf by the family or partnership concerned.]

General disqualifications of Electors.

No person will be qualified to vote at any election, if such person

(*a*) is a female, or
(*b*) is under 21 years of age, or
(*c*) is not a British subject or the subject of any State in India, or
(*d*) has been adjudged by a competent court to be of unsound mind.

Qualifications of Electors.

(i) Urban Areas, i.e., municipalities, cantonments, notified areas and town areas.

Every person will be entered in the electoral roll of the constituency who has a place of residence in the area or within two miles of the boundary thereof, and

(*a*) pays house or building tax on a house or building of the annual rental value of not less than Rs. 36 per annum, or
(*b*) where there is no house or building tax, pays municipal tax on an income of not less than Rs. 200 per annum, or
(*c*) where there is neither a house or building tax nor a municipal tax on income, occupies a house of the annual rental value of not less than Rs. 36 per annum, or
(*d*) pays income tax, or
(*e*) is a retired and pensioned officer (commissioned or non-commissioned) of the Indin army, or
(*f*) holds a qualification within the area which would entitled him to be entered in the rural roll if the area were not a municipality, cantonment, notified area or town area.

(ii) Rural Areas.

Every person will be entered in the electoral roll of the constituency who has a place of residence in the area, and

(*a*) pays as the owner of land not less than Rs. 25 per annum land revenue, or in the case of a resident in the hill *pattis* of Kumaun pays land revenue of any amount, or is a *khaikar*, or
(*b*) being a fixed rate tenant in a permanently settled estate (or in Oudh an occupancy tenant) pays a rent of not less than Rs. 25 per annum, or
(*c*) being a tenant pays a rent of not less than Rs. 50 per annum, or
(*d*) pays income tax, or
(*e*) is a retired and pensioned officer (commissioned or non-commissioned) of the Indian army.

In urban and rural constituencies two electoral rolls will be kept, one for Muhammadans and one for non-Muhammadans No European will be entered in either roll

(iii) European Constituency

Every person will be entered in the electoral roll of the constituency who, being a European, has a place of residence in the province and has any of the qualifications for an elector in an urban or rural area.

(iv) Talukdars' Constituency

The five members for this constituency will be elected by the members of the British Indian Association (consisting of the talukdars of Oudh whose estates are governed by Act I of 1869 and whose names are on the list of talukdars published by the local Government) voting in accordance with regulations to be approved by the Governor in Council

(v) Agra Landholders' Constituency

Every landholder will be entered in the electoral roll of this constituency who has a place of residence in the province of Agra, and

(a) owns land in that province in respect of which land revenue amounting to not less than Rs 5,000 per annum is payable, or
(b) owns land in that province free of land revenue, if the land revenue nominally assessed on such land in order to determine the amount of rates payable in respect of the same, either alone or together with any land revenue payable in respect of other land by such owner, amounts to not less than Rs 5,000 per annum, or
(c) holds the title of Maharaja, Raja, or Nawab, if conferred or recognised by Government, or
(d) holds the title of Rajwar, Rao Bahadur, Rao Rai, Mirza Bahadur, Khan Bahadur, Chaudhury, or Diwan, if hereditary and recognised by Government

Provided that no landholder shall have more than one vote though he may have more than one of the qualifications above described

(vi) University Constituency

The representative of the Allahabad University will be elected by the members of the senate and honorary fellows of that university having a place of residence in India

(vii) Commerce and Industry Constituencies

Two representatives will be elected by the members of the Upper India Chamber of Commerce voting in accordance with regulations to be approved by the Governor in Council

One representative will be elected by the members of the United Provinces Chamber of Commerce voting in accordance with regulations to be approved by the Governor in Council.

A member of both chambers shall vote in one only of the two constituencies and shall be at liberty to choose in which he will vote. Provision should be made to enable the Governor in Council to revise the method of election for these constituencies from time to time in order to meet any alteration in the position or constitution of these chambers.*

B.—QUALIFICATIONS OF CANDIDATES.

No person will be eligible for election as a member of the Council, if such person—

(*a*) is not a British subject or a subject of any State in India, or
(*b*) is an official, or
(*c*) is a female, or
(*d*) has been adjudged by a competent court to be of unsound mind, or
(*e*) is under 25 years of age, or
(*f*) is an uncertificated bankrupt or an undischarged insolvent, or
(*g*) has, in circumstances which, in the opinion of the Governor in Council, involve moral turpitude, been (*i*) dismissed from the service of Government, or (*ii*) sentenced by a criminal court to imprisonment (such sentence not having subsequently been reversed or remitted, or the offender pardoned), or
(*h*) has been dismissed or is under suspension from practising as a legal practitioner by order of any competent court:

Provided that in cases (*g*) and (*h*) the disqualification may be removed by an order of the Governor in Council in this behalf.

No person shall be eligible for election as a member of the Council to represent

(1) an urban or rural constituency, unless such person is registered as an elector in an urban or rural constituency within the province, or
(2) a European, talukdars', Agra landholders', university or commerce and industry constituency, unless such person is registered as an elector in the constituency for which he seeks election.

C.—PLURAL VOTING.

At each election to the Council no elector is to vote in more than one of the non-Muhammadan, Muhammadan and European constituencies,

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* The term " *member* " will include any person entitled to exercise the rights and privileges of membership on behalf and in the name of any firm of joint stock company or corporation registered as a member.

but an elector will be at liberty, in addition to voting in one of these constituencies to exercise any votes to which he may be entitled for the talukdars', Agra landholders', university or commerce and industry seats

D.—CONSTITUTION OF THE COUNCIL

The Council will be constituted as follows —

Non Muhammadan urban seats	8	
Non Muhammadan rural seats	49	
	—	57
Muhammadan urban seats	4	
Muhammadan rural seats	23	
	—	27
European seat		1
Talukdars seats		5
Agra landholders seat		1
University seat		1
Commerce and Industry seat		1
Upper India Chamber of Commerce	2	
United Provinces Chamber of Commerce	1	
	—	3
Representatives appointed by nomination—		
(1) Depressed classes	1	
(2) Anglo-Indians	1	
(3) Indian Christians	1	
(4) Others	2	
	—	5
Official seats—		
Ex officio	4	
Nominated	14	
	—	18
		118
To which may be added by the Governor not more than two experts (official or non official)		2
		120

The *ex officio* members will be the Governor, two members of the Executive Council and the Legal Remembrancer

E.—LIST OF CONSTITUENCIES

NON MUHAMMADAN URBAN SEATS—8

District	Number of seats	Male population in thousands	Estimated number of electors in thousands
Agra	1	69	7½
Cawnpore	1	77	6
Allahabad	1	69	6½
Lucknow	1	90	10½

District.	Number of seats.	Male population in thousands.	Estimated number of electors in thousands.
Benares	1	76	9½
Bareilly	1	38	1½
Meerut Aligarh	1	59	3¾
Moradabad Shahjahanpur	1	36	3
TOTAL	8	514	48¼

NON-MUHAMMADAN RURAL SEATS—49.

District.	Number of seats.	Male population in thousands.	Estimated number of electors in thousands.
Dehra Dun and Saharanpur	1	465	37
Muzaffarnagar	1	319	29
Meerut	2	599	60
Bulandshahr	2	484	95
MEERUT DIVISION	6	1,867	221
Aligarh	2	531	49
Muttra	1	328	28
Agra	1	426	38
Mainpuri	1	415	26
Etah	1	426	28
AGRA DIVISION	6	2,126	169
Bareilly	1	409	23
Bijnor	1	282	29
Budaun	1	483	25
Moradabad	1	420	32
Shahjahanpur	1	424	12
Pilibhit	1	217	9
ROHILKHAND DIVISION	6	2,235	130
Jhansi and Jalaun	1	528	24
Hamirpur and Banda	1	534	26
JHANSI DIVISION	2	1,062	50
Farukhabad	1	439	21
Etawah	1	392	28
Cawnpore	1	490	29
Fatehpur	1	311	17
Allahabad	1	576	24
ALLAHABAD DIVISION	5	2,208	119
Benares	1	326	10
Mirzapur	1	496	10
Jaunpur	1	526	14
Ghazipur	1	384	12
Ballia	1	398	12
BENARES DIVISION	5	2,130	58

District	Number of seats	Male population in thousands	Estimated number of electors in thousands
Gorakhpur	2	1 442	25
Basti	1	772	18
Azamgarh	1	657	17
GORAKHPUR DIVISION	4	2,871	60
Naini Tal	1	142	19*
Almora	1	264	96*
Garhwal	1	233	35*
KUMAUN DIVISION	3	639	150
Lucknow	1	238	18
Unao	1	439	23
Rae Bareli	1	467	20
Sitapur	1	516	40
Hardoi	1	547	32
Kheri	1	438	21
LUCKNOW DIVISION	6	2,645	154
Fyzabad	1	512	20
Gonda	1	604	25
Bahraich	1	440	26
Sultanpur	1	460	15
Partabgarh	1	392	14
Bara Banki	1	472	36
FYZABAD DIVISION	6	2 880	136
TOTAL	49	20,663	1 247

MUHAMMADAN URBAN SEATS—4

District	Number of seats	Male population in thousands	Estimated number of electors in thousands
Allahabad and Benares	1	57	4
Lucknow and Cawnpore	1	82	3¾
Agra Aligarh and Meerut	1	74	4¾
Bareilly, Moradabad and Shahjahanpur	1	77	3¾
TOTAL	4	290	16¼

MUHAMMADAN RURAL SEATS—23

District	Number of seats	Male population in thousands	Estimated number of electors in thousands
Dehra Dun, Saharanpur	1	197	15
Meerut	1	157	12
Muzaffarnagar	1	126	10
Bijnor	1	145	10
Bulandshahr	1	109	14
Aligarh, Muttra, Agra	1	125	7

* Including rural Muhammadan electors

District.	Number of seats.	Male population in thousands.	Estimated number of electors in thousands.
Mainpuri Etah Farukhabad	1	128	7
Etawah Cawnpore Fatehpur	1	93	5
Jhansi Jalaun Hamirpur Banda	1	65	3
Allahabad Jaunpur Mirzapur	1	157	7
Benares Ghazipur Ballia Azamgarh	1	175	8
Gorakhpur	1	163	2
Basti	1	154	4
Moradabad	2	213	15
Budaun Shahjahanpur	1	148	10
Bareilly Pilibhit	1	114	6
Kumaun Division	1	91	2
Gonda Bahraich	1	219	11
Kheri Sitapur Hardoi	1	163	5
Lucknow Unao	1	132	8
Fyzabad Bara Banki Sultanpur	1	155	7
Partabgarh Rae Bareli	1	144	4
TOTAL	23	3,173	172

Where more seats than one are assigned to a district, the district will, so far as circumstances permit, be divided into the necessary number of single-member constituencies by the Governor in Council.

The total number of electors for the above constituencies is estimated roughly as follows:—

Urban—	
Non-Muhammadan (8 seats)	48,250
Muhammadan (4 ,,)	16,250
Rural—	
Non-Muhammadan (49 ,,)	1,247,000
Muhammadan (23 ,,)	172,000*
TOTAL	1,483,500

* Excluding the Muhammadan rural electors in the Kumaun division who are included in the figures of the non-Muhammadan rural electorates.

The urban electorate will amount to 8 per cent. of the male population in the urban constituencies, the rural electorate to 5 9 per cent.* of the male population in the rural constituencies, and the total electorate to 6 per cent. of the total male population or 3 1 per cent. of the total population.

Explanatory Notes

1. In the qualifications of electors in rural areas, the term "hill *pattis* of Kumaun" is used to designate a particular tract where the tenures differ considerably from those in the rest of the province. A *khaikar* in Kumaun is a special class of proprietor possessing hereditary but not transferable rights A fixed rate tenant and an occupancy tenant receive special protection under the Rent Acts, and ordinarily pay substantially a lower rate of rent than other tenants not so protected

2. The taluqdars of Oudh are a specially privileged class of large landholders, [illegible] privileges under the Taluqdari Acts, as a recogni[illegible] of 1857 Succession in many estates is governed [illegible] rmed the British Indian Association which is [illegible] latter collects from them by agreement a cess, [illegible] iation and half is devoted to special educational [illegible] rs of the Agra province are distinct from the [illegible] recommended are those in force for the present Council.

3 The Upper India Chamber of Commerce represents mainly European interests, and the United Provinces Chamber of Commerce Indian interests

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* Excluding the Muhammadan rural electors in the Kumaun division who are included in the figures of the non-Muhammadan rural electorates

APPENDIX V.

Province of the Punjab.

STATISTICAL SUMMARY.

	Area in square miles.	Population.
British territory	*99,221*	*19,576,402*
Deduct excluded areas :—		
(*a*) Lahoul	1,764	7,760
(*b*) Spiti	2,931	3,629
BALANCE	*94,526*	*19,565,013*

Male adults of 20 years of age and over		5,641,206
Do. do. do. literate		544,522
Do. do. do. literate in English		69,823
Hindus—		
Brahmans	720,343	
Non-Brahmans	3,947,726	
Others*	1,738,071	
		6,406,140
Muhammadans		10,840,499
Sikhs		2,090,915
Indian Christians		158,918
Anglo-Indians		2,966
European British subjects		30,286
Others		35,289
		19,565,013

Total population of municipal towns, cantonments and notified areas	2,171,704
Total population of rural areas	17,393,309

Towns of over 50,000 population—	
Lahore	228,687
Amritsar	152,756
Multan	99,243
Rawalpindi	86,483
Ambala	80,131
Jullundur	69,318
Sialkot	64,869
Ferozepur	50,836

* Includes castes which are not ordinarily admitted to a Hindu temple. *Vide* page 19[illegible], Part I, Punjab Census Report, 1911.

Ex officio (the Lieutenant Governor)		1
Nominated of whom not more than 11 may be officials		17
Elected members—		
(1) by the University of the Punjab	1	
(2) by municipal and cantonment committees	4	
(3) by district boards	5	
(4) by the Punjab Chamber of Commerce	1	
	—	11
TOTAL		29

To which may be added 2 expert members

NUMBER OF ELECTORS

Members of municipal and cantonment committees	425
Members of district boards	855

Scheme for the constitution of and elections to the Provincial Legislative Council.

A —FRANCHISE QUALIFICATIONS

[In cases other than those falling under qualification (*b*) for electors in rural areas, where property is held or payments made jointly by the member of a joint family or partnership the family or partnership shall be adopted as a unit for deciding whether the qualification exists, and the vote shall be exercised in the case of a Hindu joint family by the manager thereof, and in other cases by the member or partner authorised in that behalf by the family or partnership concerned]

GENERAL DISQUALIFICATIONS OF ELECTORS

No person will be qualified to vote at any election, if such person

(*a*) is a female, or

(*b*) is under 21 years of age, or

(*c*) is not a British subject or the subject of any State in India, or

(*d*) has been adjudged by a competent court to be of unsound mind

QUALIFICATIONS OF ELECTORS

(*i*) *Urban Areas i e , municipalities, cantonments and notified areas*

Every person will be entered in the electoral roll of the constituency who has a place of residence in the area or within two miles of the boundary thereof, and

(*a*) owns or occupies immovable property of the value of Rs 5 000, or

(*b*) pays direct municipal tax of not less than Rs 50 per annum, or

(c) owns or occupies premises of an estimated annual rental value of not less than Rs. 120 per annum, or
(d) pays income tax, or
(e) is a retired and pensioned officer (commissioned or non-commissioned) of the Indian army, or
(f) holds a qualification within the area which would entitle him to be entered in the rural roll if the area were not a municipality, cantonment or notified area.

(ii) *Rural Areas.*

Every person will be entered in the electoral roll of the constituency who has a place of residence in the area, and

(a) is a lumbardar,* zaildar, inamdar, or sufedposh, or
(b) is an owner of land whose holding or share in a holding is assessed to land revenue of not less than Rs. 50 per annum, or
(c) is a Crown tenant holding land under the Punjab Colonization of Land Act (Punjab Act V of 1912), or a lessee for a term of not less than 10 years under the Waste Land Rules, such land being in either case assessed to land revenue of not less than Rs. 50 per annum, or
(d) is an assignee of land revenue of not less than Rs. 50 per annum, or
(e) pays income tax, or
(f) is a retired and pensioned officer (commissioned or non-commissioned) of the Indian army.

Separate electorate rolls will be kept for Muhammadans and Sikhs. All other electors will be entered in a general roll. No Muhammadan or Sikh elector will be entered in the roll for the general electorate.

The declaration of an elector that he is a Muhammadan or Sikh shall be accepted by the officer charged with the preparation of the electoral roll, unless he is satisfied that the declaration is not made in good faith, in which case the officer shall record in writing his reasons for refusing to accept the declaration of the elector.

(iii) *Landholders' Constituencies.*

There will be four constituencies.

Two representatives will be elected by Muhammadans in the landholders' electoral roll, the province being for this purpose divided into two constituencies by the Governor in Council and the electors voting in the constituency in which they have their place of residence.

One representative will be elected by Sikhs in the landholders' electoral roll.

* Where a substitute lumbardar has been appointed, he will be entered in the roll instead of the lumbardar.

One representative will be elected by the remainder (*i e*, neither Muhammadans nor Sikhs) of the persons in the landholders' electoral roll.

Every landholder will be entered in the electoral roll of each constituency who has a place of residence in the constituency, and

(*a*) holds land assessed to an annual land revenue of Rs 500, or
(*b*) is an assignee of land revenue of Rs 500 per annum, or
(*c*) has been recognised by Government as holding an hereditary seat in darbar

Provided that no landholder shall have more than one vote in any one constituency though he may have more than one of the qualifications above described *

(*iv*) *University Constituency*

The representative of the Punjab University will be elected by the members of the senate and the honorary fellows of that university, resident in India

(*v*) *Commerce and Industry Constituencies*

One representative will be elected by the members of the Punjab Chamber of Commerce and the Punjab Trades Association voting jointly, the election being carried out in accordance with regulations to be approved by the Governor in Council Provision should be made to enable the Governor in Council to revise the method of election for this constituency from time to time in order to meet any alteration in the position or constitution of these associations †

One representative will be elected by persons whose qualifications will be as follows —

(*a*) being the owner, or a person appointed by the owner for the purpose of voting on his behalf, of a factory situated in the Punjab and subject to the provisions of the Indian Factories Act XII of 1911, no owner being entitled to more than one vote, or
(*b*) being appointed for the purpose of voting by any company having a place of business in the Punjab and a paid up capital of not less than Rs 25,000 and being a company as defined in section 2 of the Indian Companies Act VII of 1913

Provided that companies, persons or firms entitled to vote as members of the Punjab Chamber of Commerce or the Punjab Trades Association shall be excluded from this roll

* The total number of electors for these four seats is estimated at about 2 400
† The term "member" will include any person entitled to exercise the rights and privileges of membership on behalf and in the name of any firm or joint stock company or corporation registered as a member

B.—QUALIFICATIONS OF CANDIDATES.

No person will be eligible for election as a member of the Council, if such person

(a) is not a British subject or a subject of any State in India, or
(b) is an official, or
(c) is a female, or
(d) has been adjudged by a competent court to be of unsound mind, or
(e) is under 25 years of age, or
(f) is an uncertificated bankrupt or an undischarged insolvent, or
(g) has, in circumstances which, in the opinion of the Governor in Council, involve moral turpitude, been (i) dismissed from the service of Government, or (ii) sentenced by a criminal court to imprisonment (such sentence not having subsequently been reversed or remitted or the offender pardoned), or
(h) has been dismissed or is under suspension from practising as a legal practitioner by order of any competent court, or
(i) is not registered as an elector in the constituency for which he seeks election:

Provided that in cases (g) and (h) the disqualification may be removed by an order of the Governor in Council in this behalf.

C.—PLURAL VOTING.

At each election to the Council no elector is to vote in more than one of the general, Muhammadan or Sikh constituencies, but an elector will be at liberty, in addition to voting in one of these constituencies, to exercise any votes to which he may be entitled for landholders', university or commerce and industry seats.

D.—CONSTITUTION OF THE COUNCIL.

The Council will be constituted as follows:—

General urban seats	4	
General rural seats	14	18
Muhammadan urban seats	6	
Muhammadan rural seats	22	28
Sikh seats		8
Landholders' seats—		
General	1	
Muhammadan	2	
Sikh	1	4
University seat		1
Commerce and industry seats		2

Representatives appointed by nomination—		
(1) Military interests	1	
(2) Europeans and Anglo Indians	2	
(3) Indian Christians	1	
(4) Others	2	
	—	6
Official seats—		
Ex-officio	4	
Nominated	12	
	—	16
TOTAL		83
To which may be added by the Governor not more than 2 experts (official or non official)		2
		85

The *ex-officio* members will be the Governor, two members of the Executive Council and the Legal Remembrancer

E —LIST OF CONSTITUENCIES

GENERAL URBAN SEATS—4

District	Number of seats	Male population in thousands	Estimated number of electors in thousands
Ambala and Jullundur Divisions	1	226	
Lahore Division (excluding Lahore and Amritsar cities)	1	47	
Lahore and Amritsar cities	1	92	
Rawalpindi and Multan Divisions	1	112	
	4	477*	

GENERAL RURAL SEATS—14

Ambala, Simla	1		193		3	
Karnal	1		291		4	
Gurgaon	1		238		4	
Rohtak	1		300		5	
Hissar	1		271		2½	
AMBALA DIVISION		5		1,293		18½
Kangra	1		374		1¾	
Hoshiarpur	1		267		3½	
Jullundur, Ludhiana, Ferozepur	1		323		3	
JULLUNDUR DIVISION		3		964		8¼

* i e of municipalities and cantonments The population of notified areas is in these tables included in that of the rural constituencies as separate figures are not available in all cases.

District.	Number of seats.	Male population in thousands.	Estimated number of electors in thousands.
Lahore			
Amritsar	1	247	1
Gurdaspur	1	158	2½
Sialkot			
Gujranwala	1	248	4
LAHORE DIVISION	3	653	7½
Gujrat			
Shahpur			
Jhelum			
Rawalpindi	1	104	1½
Attock			
Mianwali			
RAWALPINDI DIVISION	1	104	1½
Montgomery			
Lyallpur	1	166	2
Jhang			
Muzaffargarh			
Muzaffargarh	1	101	3
Dera Ghazi Khan			
MULTAN DIVISION	2	267	5
TOTAL	14	3,281	40½

MUHAMMADAN URBAN SEATS—6.

Ambala Division	1	90
Jullundur Division	1	84
Lahore Division (excluding Lahore and Amritsar cities)	1	85
Lahore and Amritsar cities	1	119
Rawalpindi Division	1	90
Multan Division	1	78
	6	546*

MUHAMMADAN RURAL SEATS—22.

Ambala			
Simla	1	187	2½
Karnal			
Gurgaon			
Rohtak	1	266	3¼
Hissar			
AMBALA DIVISION	2	453	5¾

* *Vide* footnote on preceding page.

District.	Number of seats	Male population in thousands	Estimated number of electors in thousands
Kangra Hoshiarpur	1	167	2¼
Jullundur Ludhiana	1	239	2½
Ferozepur	1	211	2
JULLUNDUR DIVISION	3	617	6¾
Lahore	1	256	1½
Amritsar	1	182	1
Gurdaspur	1	211	2½
Sialkot	1	307	4
Gujranwala	1	324	6
LAHORE DIVISION	5	1 280	15
Gujrat	1	334	3½
Shahpur	1	296	7
Jhelum	1	226	2½
Rawalpindi	1	215	2½
Attock Mianwali	1	389	3½
RAWALPINDI DIVISION	5	1 459	18¾
Montgomery	1	210	2½
Lyallpur	2	286	16¾
Jhang	1	217	4½
Multan	1	329	3½
Muzaffargarh	1	262	2
Dera Ghazi Khan	1	228	1
MULTAN DIVISION	[illegible]	1 532	30¼
TOTAL	22	5 341	76½

SIKH SEATS—8

Ambala Division	1	86	1½
Jullundur Division	2	446	8
Lahore Division	2	426	16¾
Rawalpindi Division	1	89	1½
Multan Division	2	148	11
TOTAL	8	1 195	38¾

In every case where more seats than one are assigned to a division or district the area will so far as circumstances permit, be divided into the necessary number of single member constituencies by the Governor in Council

The total number of electors for the above [illegible] roughly as follows:—

Urban	[illegible]
Rural	[illegible]
Total	[illegible]

The urban electorate will amount to approximately [illegible] of the male population in urban constituencies, the rural [illegible] (including the Sikh elector) to 1·6 per cent. of the [illegible] rural constituencies and the total electorate to 2·2 per cent. of [illegible] male population, or 1·2 per cent. of the total population.

Explanatory Notes.

1. In the qualifications for the urban electorate [illegible] the ownership or occupation of immoveable property [illegible] ities which have no taxation based on annual rental [illegible] denotes a small town, ordinarily of less than 10,000 inhabitants, [illegible] fied form of municipal self-government.

2. In the qualifications for rural [illegible] headman. The post is hereditary [illegible] Government); the chief duty of the headman [illegible] government dues, but he has also duties [illegible] tion, such as the reporting of crime. He [illegible] of the revenue collected. [illegible] notables selected [illegible] who receive an annual [illegible] trative matters. The Crown tenant [illegible] rently irrigated government lands [illegible] pending the period when [illegible] their lands. An assignee of land revenue [illegible] to the British Government [illegible] enjoy the revenue [illegible] the revenue payer [illegible]

3. Communal representation [illegible] owing to the difficulty of [illegible] mate in the [illegible]

4. The Punjab [illegible] represent [illegible]

APPENDIX VI.

Province of Bihar and Orissa.

STATISTICAL SUMMARY

		Area in square miles	Population
British territory		83,181	34 490,084
Deduct excluded areas —			
(a) Angul district		1,681	199,451
(b) The Santhal Parganas District except municipalities		5,463	1 844,172
	BALANCE	76 037	32,446,461

Male adults of 20 years of age and over		8,028,952*
Do do do literate		963,561
Do do do literate in English		51,284
Hindus—		
Brahmans	1,593,422	
Non-Brahmans	16,283 787	
Others†	9,382,321	
		27,259,530
Muhammadans		3,489,912
Animists		1,431,410
Indian Christians		210,450
Anglo-Indians		3,187
European British subjects		5,337
Others		7,834
TOTAL		32,407,660

Total population of municipalities and cantonments	1,162,245
Total population of rural areas	31,284,216

* These and the following figures do not include the population of the municipalities of the Santal Parganas District me

† The term others per mille of the total population and clas o the interior of ordinary Hindu temples ε I Census Report of Bengal Bihar and Ori rally described as untouchables '

Towns of over 50,000 population—

Town	Population
Patna	[illegible]
Bhagalpur	74,3[illegible]
Durbhanga	62,6[illegible]
Cuttack	[illegible]

CONSTITUTION OF EXISTING LEGISLATIVE COUNCIL.

Ex-officio members, including the Lieutenant-Governor		4
Nominated members, of whom not more than 15 may be officials		19
Elected members—		
(1) by municipal commissioners	5	
(2) by district boards	5	
(3) by landholders	5	
(4) by Muhammadans	4	
(5) by the mining interest	1	
(6) by the planting interest	1	
		21
TOTAL		44

To which may be added one expert member.

NUMBER OF ELECTORS.

Municipal commissioners	6[illegible]0
District board members	272
Landholders	321
Muhammadans	1,201

Scheme for the constitution of and elections to the Provncial Legislative Council.

A.—FRANCHISE QUALIFICATIONS.

[In cases where property is held or payments made jointly by the members of a joint family or partnership, the family or partnership shall be adopted as a unit for deciding whether the qualification exists and the vote shall be exercised in the case of a Hindu joint family by the manager thereof, and in other cases by the member or partner authorised in that behalf by the family or partnership concerned.]

GENERAL DISQUALIFICATIONS OF ELECTORS.

No person will be qualified to vote at any election, if such person—

(a) is female, or

(b) is under 21 years of age, or

(c) is not a British subject or the subject of any State in [illegible]

(d) has been adjudged by a competent court to be of unsound mind [illegible]

(i) Urban Constituencies

Every person will be entered in the electoral roll of the constituency, who has a place of residence in the constituency or within two miles of the boundary thereof, and

(a) pays in respect of any municipal or cantonment rates an aggregate amount of not less than Rs 3 per annum, or

(b) pays income tax, or

(c) is a retired and pensioned officer (commissioned or non commissioned) of the Indian army, or

(d) holds a qualification within the constituency which would entitle him to be entered in the rural roll if the constituency were rural

(ii) Rural Constituencies

Every person will be entered in the electoral roll of the constituency who has a place of residence in the constituency, and

(a) holds an estate or estates or portion of an estate or portions of estates, for which a separate account or accounts have been opened whether revenue paying or revenue free or rent free land, for which an aggregate amount of not less than Rs 12 per annum is payable direct to the Treasury as local cess, or

(b) holds a tenure and is assessed for the purpose of local cess at not less than Rs 100 per annum or

(c) holds land as a raiyat and pays an annual rent of —
Rs 16 in the Orissa and Chota Nagpur Division, or
Rs 64 in the Patna Division and the Monghyr District or
Rs 48 elsewhere or

(d) pays an assessment of not less than Rs 1 8 to a Union Committee established under Chapter III of the Local Self Government Act [III (B C) of 1885] or

(e) pays income tax, or

(f) is a retired and pensioned officer (commissioned or non commissioned) of the Indian army

In urban and rural constituencies two electoral rolls will be kept, one for Muhammadans and one for non Muhammadans No European will be entered in either roll

(iii) European Constituency

Every person will be entered in the electoral roll of this constituency who being a European has a place of residence in the province, and has any of the qualifications for an elector in an urban or rural constituency

Towns of over 50,000 population—

Patna	136,153
Bhagalpur	74,349
Durbhanga	62,628
Cuttack	52,528

CONSTITUTION OF EXISTING LEGISLATIVE COUNCIL.

Ex-officio members, including the Lieutenant-Governor		4
Nominated members, of whom not more than 15 may be officials		19
Elected members—		
(1) by municipal commissioners	5	
(2) by district boards	5	
(3) by landholders	5	
(4) by Muhammadans	4	
(5) by the mining interest	1	
(6) by the planting interest	1	
		21
TOTAL		44

To which may be added one expert member.

NUMBER OF ELECTORS.

Municipal commissioners	620
District board members	262
Landholders	321
Muhammadans	1,201

Scheme for the constitution of and elections to the Provncial Legislative Council.

A.—FRANCHISE QUALIFICATIONS.

[In cases where property is held or payments made jointly by the members of a joint family or partnership, the family or partnership shall be adopted as a unit for deciding whether the qualification exists; and the vote shall be exercised in the case of a Hindu joint family by the manager thereof, and in other cases by the member or partner authorized in that behalf by the family or partnership concerned.]

GENERAL DISQUALIFICATIONS OF ELECTORS.

No person will be qualified to vote at any election, if such person

(*a*) is female, or

(*b*) is under 21 years of age, or

(*c*) is not a British subject or the subject of any State in India, or

(*d*) has been adjudged by a competent court to be of unsound mind.

(i) *Urban Constituencies*

Every person will be entered in the electoral roll of the constituency, who has a place of residence in the constituency or within two miles of the boundary thereof, and

(a) pays in respect of any municipal or cantonment rates an aggregate amount of not less than Rs 3 per annum, or

(b) pays income-tax, or

(c) is a retired and pensioned officer (commissioned or non commissioned) of the Indian army, or

(d) holds a qualification within the constituency which would entitle him to be entered in the rural roll if the constituency were rural

(ii) *Rural Constituencies*

Every person will be entered in the electoral roll of the constituency, who has a place of residence in the constituency, and

(a) holds an estate or estates or portion of an estate or portions of estates, for which a separate account or accounts have been opened, whether revenue paying or revenue free or rent free land, for which an aggregate amount of not less than Rs 12 per annum is payable direct to the Treasury as local cess, or

(b) holds a tenure and is assessed for the purpose of local cess at not less than Rs 100 per annum, or

(c) holds land as a raiyat and pays an annual rent of —
Rs 16 in the Orissa and Chota Nagpur Division, or
Rs 64 in the Patna Division and the Monghyr District, or
Rs 48 elsewhere, or

(d) pays an assessment of not less than Rs 1-8 to a Union Committee established under Chapter III of the Local Self Government Act [III (B C) of 1885], or

(e) pays income tax, or

(f) is a retired and pensioned officer (commissioned or non commissioned) of the Indian army

In urban and rural constituencies, two electoral rolls will be kept, one for Muhammadans and one for non-Muhammadans No European will be entered in either roll

(iii) *European Constituency*

Every person will be entered in the electoral roll of this constituency who being a European, has a place of residence in the province, and has any of the qualifications for an elector in an urban or rural constituency

(iv) *Landholders' Constituencies.*

There will be five constituencies, each consisting of one division. Every landholder will be entered in the electoral roll of each constituency, who has a place of residence in the constituency, and

(a) pays not less than Rs. 4,000 land revenue or Rs. 1,000 local cess in the Patna, Tirhut and Bhagalpur divisions, or Rs. 6,000 land revenue or Rs. 500 local cess in the Orissa and Chota Nagpur divisions; or

(b) holds the title recognized or conferred by Government of Rajah or Nawab, or any higher title.

Provided that no landholder shall have more than one vote in any one constituency though he may have more than one of the qualifications above described.*

(v) *University Constituency.*

The representative of the Patna University will be elected by the members of the senate of that university having a place of residence in India.

(vi) *Planting Constituency.*

The representative of this constituency will be elected by the members of the Bihar Planters' Association, voting in accordance with regulations to be approved by the Governor in Council. Provision should be made to enable the Governor in Council to revise the method of election for this constituency from time to time, in order to meet any alteration in the position or constitution of this association.†

(vii) *Mining Constituencies.*

Of the two mining representatives, one will be elected by the members of the Indian Mining Association and the other by the members of the Indian Mining Federation, voting in accordance with regulations to be approved by the Governor in Council. A member of both bodies shall vote in one only of the two constituencies, and shall be at liberty to choose in which he will vote. Provision should be made to enable the Governor in Council to revise the method of election for these constituencies from time to time, in order to meet any alteration in the position or constitution of these bodies.†

B.—QUALIFICATIONS OF CANDIDATES.

No person will be eligible for election as a member of the Council, such person

(a) is not a British subject or a subject of any State in India, or

(b) is an official, or

* The total number of electors for the five landholders' seats will be about 320 who pay about one-third of the total cess paid in the province.

† The term "member" will include any person entitled to exercise the rights and privileges of membership on behalf and in the name of any firm or joint stock-company or corporation registered as a member.

(c) is a female, or

(d) has been adjudged by a competent court to be of unsound mind, or

(e) is under 25 years of age, or

(f) is an uncertificated bankrupt or an undischarged insolvent, or

(g) has, in circumstances which, in the opinion of the Governor in Council, involve moral turpitude, been (i) dismissed from the service of Government, or (ii) sentenced by a criminal court to imprisonment (such sentence not having subsequently been reversed or remitted or the offender pardoned) or

(h) has been dismissed or is under suspension from practising as a legal practitioner by order of any competent court

Provided that in cases (g) and (h) the disqualification may be removed by an order of the Governor in Council in this behalf

No person shall be eligible for election as a member of the Council to represent

(1) an urban or rural constituency, unless such person is registered as an elector in an urban or rural constituency within the province, or

(2) a European, landholders', university, planting or mining constituency, unless such person is registered as an elector in the constituency for which he seeks election

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C —PLURAL VOTING

At each election to the Council no elector is to vote in more than one of the non-Muhammadan, Muhammadan and European constituencies but an elector will be at liberty, in addition to voting in one of these constituencies, to exercise any votes to which he may be entitled for landholders', university university, planting or mining seats

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D —CONSTITUTION OF THE COUNCIL

The Council will be constituted as follows —

Non Muhammadan urban seats	6	
Non Muhammadan rural seats	40	
	—	46
Muhammadan urban seats	3	
Muhammadan rural seats	14	
	—	17
European seat		1
Landholders' seats		5
University seat		1
Planting seat		1
Minings seats—		
Indian Mining Association	1	
Indian Mining Federation	1	
	—	2

Representatives appointed by nomination		
(1) Industrial interests other than planting and mining	1	
(2) Aborigines	1	
(3) Depressed classes	1	
(4) Domiciled Bengalis	1	
(5) Anglo-Indians	1	
(6) Indian Christians	1	
(7) Labour	1	
(8) Others	2	
		9
Official seats—		
Ex-officio	4	
Nominated	12	
		16
TOTAL		98
To which may be added by the Governor not more than 2 experts (official or non-official)		2
		100

The *ex-officio* members will be the Governor, two members of the Executive Council and the Legal Remembrancer.

E.—LIST OF CONSTITUENCIES.

NON-MUHAMMADAN URBAN SEATS—6.

District.	Number of seats.	Male population in thousands.	Estimated number of electors in thousands.
Patna City	1	52	4
Other municipalities and cantonments of the Patna Division	1	97	10
Municipalities of the Tirhut Division	1	159	10
,, of the Bhagalpur Division	1	89	10
,, and cantonments of the Orissa Division	1	74	7½
,, and cantonments of the Chota Nagpur Division	1	52	4½
TOTAL	6	523	46

NON-MUHAMMADAN RURAL SEATS—40.

District.	Number of seats.	Male population in thousands.	Estimated number of electors in thousands.
Patna	2	643	38
Gaya	3	937	54
Shahabad	3	807	43
PATNA DIVISION	8	2,387	135

District	Number of seats	Male population in thousands	Estimated number of electors in thousands
Muzaffarpur	4	919	33
Saran	2	787	29
Champaran	2	1,165	16
Darbhanga	4	1,165	33
TIRHUT DIVISION	12	4 026	111
Bhagalpur	3	921	36
Monghyr	3	923	35
Purnea	1	581	13
BHAGALPUR DIVISION	7	2 425	84
Cuttack	2	936	24
Balasore	2	480	12½
Puri	2	474	16½
Sambalpur	1	358	6
ORISSA DIVISION	7	2 248	59
Ranchi	1	635	11½
Hazaribagh	1	550	21½
Palamau	1	310	14
Manbhum	2	729	13
Singhbhum	1	333	8
CHOTA NAGPUR DIVISION	6	2 557	63
TOTAL	40	13 643	457

MUHAMMADAN URBAN SEATS—3

Municipalities and cantonments of the Patna Division	1	51	6
,, of the Tirhut Division	1	35	3½
,, of the Bhagalpur Division	1	27	3
TOTAL	3	113	12½

NOTE —Muhammadan urban electors of the Orissa and Chota Nagpur Divisions will vote in the rural Muhammadan constituencies

MUHAMMADAN RURAL SEATS—14

Patna	2	49	8
Gaya	1	91	6
Shahabad	1	48	3
PATNA DIVISION	4	188	17

District.	Number of seats.	Male population in thousands.	Estimated number of electors in thousands.
Muzaffarpur			
Saran	1	113	5
Champaran	1	133	4
Darbhanga	1	152	3
	1	161	5
TIRHUT DIVISION	4	559	17
Bhagalpur			
Monghyr	1	95	4
Purnea	1	86	4
	2	417	10
BHAGALPUR DIVISION	4	598	18
Cuttack }		23	1
Balasore }	1	13	½
Puri }		9	½
Sambalpur }		1	
Add urban	...	8	1
ORISSA DIVISION	1	54	3
Ranchi }		21	½
Hazaribagh }		61	2½
Palamau }	1	28	1
Manbhum }		43	1
Singhbhum }		4	...
Add urban	...	12	½
CHOTA NAGPUR DIVISION	1	169	5½
TOTAL	14	1,568	60½

Where more seats than one are assigned to a district, the district will, so far as circumstances permit, be divided into the necessary number of single-member constituencies by the Governor in Council.

The total number of electors for the above constituencies is estimated roughly as follows:—

Urban—	
Non-Muhammadan (6 seats)	46,000
Muhammadan (3 seats)	12,500†
Rural—	
Non-Muhammadan (40 seats)	457,000
Muhammadan (14 seats)	60,500*
TOTAL	576,000

The urban electorate will amount to 9·2 per cent. of the male population in the urban constituencies, the rural population to 3·4 of the male population in the rural constituencies, and the total electorate to 3·6 per cent. of the total male population or 1·8 per cent. of the total population.

* Including } 3,000 Muhammadan urban electors in the Chota Nagpur and Orissa Divisions.
† Excluding }

Explanatory Notes

1 In the qualification for rural constituencies the payment of local cess has been adopted in preference to the payment of land revenue, because the larger portion of the province is permanently settled and the land revenue is therefore unequal, whereas the local cess is based on a periodical rental valuation A local cess payment of Rs 12 connotes an an [illegible] A "tenure" means the interest of a person who [illegible] or another tenureholder a right to hold land fo [illegible] or bringing it under cultivation by establishing [illegible]

2 The rental qualification has been varied in some divisions owing to the inequality of the rental incidence competition rents prevailing in some parts and customary rents in others

3 Union Committees, which possess the power of imposing a rate for local purposes, have been established in some areas, and it is proposed to extend the system The rural qualification (*d*) will, therefore provide the means of extending the vote to traders, whose incomes are below the income tax level

4 *Mining Constituencies*—The Indian Mining Association represents the interests of the larger mines which are mainly in European hands, the Indian Mining Federation represents Indian mine-owners

APPENDIX VII.

Central Provinces and Berar.

STATISTICAL SUMMARY.

	Area in square miles.	Population.
British Territory with Berar*	99,823	13,916,308
Deduct excluded areas:—		
(a) *Sironcha Tahsil* of the Chanda District	489	32,353
(b) The scheduled districts according to the Scheduled Districts Act of 1874 and 12 other *zamindari* estates of the Chhattisgarh division	16,627	1,162,404
(c) The Mandla district except Mandla town, and	5,057	395,855
(d) The Melghat taluq of the Amraoti district	1,609	56,058
BALANCE	76,041	12,269,638

Male adults of 20 years of age and over		3,757,932†
Do. do. do. literate		356,257
Do. do. do. literate in English		33,113
Hindus—		
Brahmans	426,520	
Non-Brahmans	7,300,628	
Others‡	3,769,338	
		11,496,486
Muhammadans		564,909
Animists		1,744,921
Indian Christians		24,106
Anglo-Indians		3,343
European British subjects		6,957
Others		75,586
TOTAL		13,916,308

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* Berar is not technically British territory, but is represented in the present Council by members nominated after election, and will be similarly represented in the new Council.

† These and the following figures include the population of the excluded areas.

‡ *i.e.*, castes which are denied access to a Hindu temple. *Vide* page 74, Part I, C. P. and Berar Census Report, 1911. These castes are generally described as "untouchables."

Total population of municipalities and cantonments included in—	
(a) urban constituencies	765,197
(b) rural constituencies	94,971
Total population of rural areas	11,409,470
Towns of over 50,000 population—	
Nagpur and Kamptee	118,670
Jubbulpore	100,651

CONSTITUTION OF THE EXISTING LEGISLATIVE COUNCIL.

Ex-officio member		1
Nominated members, of whom not more than 10 may be officials and 3 shall be non-official persons resident in Berar nominated after election by (1) Berar municipalities, (2) Berar district boards and (3) Berar landholders		17
Elected members for the Central Provinces—		
(1) by municipal committees . . .	3	
(2) by the district councils	2	
(3) by the landholders . . .	2	
		7
TOTAL .		25

To which may be added one expert member.

NUMBER OF ELECTORS.

For the 4 municipal board seats .	643
For the 3 district council seats . . .	433

Scheme for the constitution of and elections to the Provincial Legislative Council.

A.—FRANCHISE QUALIFICATIONS

[In cases where property is held or payments made jointly by the members of a joint family or partnership, the family or partnership shall be adopted as a unit for deciding whether the qualification exists; and the vote shall be exercised in the case of a Hindu joint family by the manager thereof and in other cases by the member or partner authorized in that behalf by the family or partnership concerned.]

GENERAL DISQUALIFICATIONS OF ELECTORS.

No person will be qualified to vote at any election, if such person

(a) is a female, or
(b) is under 21 years of age, or
(c) is not a British subject or the subject of any State in India, or
(d) has been adjudged by a competent court to be of unsound mind.

Every landholder will be entered in the electoral roll of each constituency who has a place of residence in the constituency, and

(a) in the Central Provinces holds land in proprietary right which is assessed to land revenue at not less than Rs 3 000, or
(b) in Berar holds land in other than tenancy right which is assessed to land revenue at not less than Rs 1 000, or
(c) holds the title recognised or conferred by Government of Rajah or Nawab, or any higher title

Provided that no landholder shall have more than one vote in any one constituency though he may have more than one of the qualifications above described

(iv) University Constituency

The representative of the Nagpur University will be elected in accordance with regulations to be approved by the Governor General in Council when the university is constituted For the present the seat will be in abeyance

(v) Mining Constituency

The representative of this constituency will be elected by the members of the Central Provinces and Berar Mining Association voting in accordance with regulations to be approved by the Governor in Council Provision should be made to enable the Governor in Council to revise the method of election for this constituency from time to time in order to meet any alteration in the position or constitution of this association *

(vi) Commerce and Industry Constituency

The representative of this constituency will be elected by persons whose qualifications will be as follows —

(a) being the owner, or a person appointed by the owner for the purpose of voting on his behalf, of a factory situated in the Central Provinces and Berar and subject to the provisions of the Indian Factories Act XII of 1911 no owner being entitled to more than one vote, or
(b) being appointed for the purpose of voting by any company having a place of business in the Central Provinces and Berar and a paid up capital of not less than Rs 25 000 and being a company as defined in section 2 of the Indian Companies Act VII of 1913

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* The term member will include any person entitled to exercise the rights and privileges of membership on behalf and in the name of any firm or joint stock company or corporation registered as a member

Official seats	
Ex officio	4
Nominated	8
TOTAL	70
To which may be added by the Governor not more than 2 experts (official or non official)	2
	72

The *ex-officio* members will be the Governor, two members of the Executive Council and the Legal Remembrancer

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E—LIST OF CONSTITUENCIES

NON-MUHAMMADAN URBAN SEATS—9

District	Number of seats	Male population in thousands	Estimated number of electors in thousands
Jubbulpore	1	43	3
Murwara, Damoh, Saugor, Seoni and Mandla	1	43	3½
Raipur, Dhamtari Bilaspur and Drug	1	32	3
Hoshangabad, Harda, Seoni Malwa, Khandwa, Burhanpur, Narsinghpur Gadarwara, Chhindwara and Betul	1	39	6½
Nagpur and Kamptee	2	53	5½
Umrer Wardha, Hinganghat Arvi, Chanda, Warora, Bhandara Gondia Balaghat	1	44	5
Amraoti, Ellichpur and Yeotmal	1	28	5
Akola Akot, Murtizapur Karanja Basim, Buldana, Malkapur, Khamgaon and Shegaon	1	42	6
TOTAL	9	324	37½

NON-MUHAMMADAN RURAL SEATS—31

Jubbulpore (A) (Jubbulpore and Patan Tahsils)	1	125	3
Jubbulpore (B) (remainder of district)	1	176	3
Damoh	1	154	3
Saugor	1	243	5½
Seoni	1	179	3
JUBBULPORE DIVISION	5	877	17½
Raipur (A) (Raipur and Baloda Bazar Tahsils)	1	241	2½
Raipur (B) (Dhamtari and Mahasamund Tahsils)	1	149	3½
Bilaspur	1	370	3
Drug	1	276	5
CHHATTISGARH DIVISION	4	1,036	14

D

District.	Number of seats.	Male population in thousands.	Estimated number of electors in thousands.
Hoshangabad	1	212	7
Nimar	1	167	4
Narsinghpur	1	149	4½
Chhindwara	1	204	3
Betul	1	188	2½
NERBUDDA DIVISION	5	920	21
Nagpur A (Nagpur and Ramtek Tahsils)	1	135	3
Nagpur B (remainder of district)	1	193	5
Wardha A (Wardha Tahsil)	1	81	2½
Wardha B (remainder of district)	1	125	2½
Chanda	1	262	2½
Bhandara	1	369	3½
Balaghat	1	183	3
NAGPUR DIVISION	7	1,348	22
Amraoti (A) (Amraoti Taluq)	1	69	2½
Amraoti (B) (Chandur and Morsi Taluqs)	1	172	4½
Amraoti (C) (Ellichpur and Daryapur Taluqs)	1	119	5
Akola (A) (Akola and Murtizapur Taluqs)	1	111	4
Akola (B) (Balapur and Akot Taluqs)	1	108	3½
Akola (C) (Mangrul and Basim Taluqs)	1	120	3
Buldanna (A) (Chikhli, Mehkar and Khamgaon Taluqs)	1	169	4
Buldana (B) (Malkapur and Jalgaon Taluqs)	1	125	3½
Yeotmal (A) (Yeotmal, Kelapur and Wun Taluqs)	1	183	3
Yeotmal (B) (Darwha and Pusad Taluqs)	1	155	3
BERAR	10	1,331	36
TOTAL	31	5,512	110½

MUHAMMADAN URBAN SEAT—1.

District.	Number of seats.	Male population in thousands.	Estimated number of electors in thousands.
The municipalities of Berar	1	21	2

MUHAMMADAN RURAL SEATS—6.

District.	Number of seats.	Male population in thousands.	Estimated number of electors in thousands.
Jubbulpore Division	1	53	2
Chhattisgarh Division	1	19	1
Nerbudda Division	1	49	2½
Nagpur Division	1	47	2
East Berar (Amraoti and Yeotmal Districts excluding municipalities)	1	51	1
West Berar (Akola and Buldana Districts excluding municipalities)	1	51	1
TOTAL	6	270	9½

Nagpur and Kamptee will be a two-member constituency.

The total number of electors for the above constituencies is estimated roughly as follows.—

Urban—	
Non-Muhammadan (9 seats)	37,500
Muhammadan (1 seat)	2,000
Rural—	
Non Muhammadan (31 seats)	110,500
Muhammadan (6 seats)	9,500
TOTAL	159,500

The urban electorate will amount to 11 4 per cent of the male population in the urban constituencies, the rural electorate to 2 per cent of the male population in the rural constituencies, and the total electorate to 2 6 per cent of the total male population or 1 3 per cent of the total population.

Explanatory Notes

1 The province of Berar is held by the British Government under a permanent lease from His Exalted Highness the Nizam of Hyderabad and is not technically British territory The representatives of this province are elected under a system similar to that in force in the Central Provinces, and the members so elected are then nominated by the Chief Commissioner

2 The "lambardar" in the Central Provinces and "watandar patel" in Berar are hereditary village headmen, appointed by Government subject to certain rules The "deshmukh" and "deshpandia" of Berar are hereditary headmen of the pargana or unit of administration under Maratha rule

3 The qualifications for the landholders' constituencies are those at present in force, the distinction in the prescribed amount of land revenue in the Central Provinces and in Berar being due to the fact that in the former the land is settled with village proprietors and in the latter with cultivators holding direct from Government under a raiyatwari system

APPENDIX VIII.

Province of Assam.

STATISTICAL SUMMARY.

	Area in square miles.	Population.
British territory	53,015	6,713,635

Deduct excluded areas—
The Garo Hills.
The Khasi and Jaintia Hills (except Shillong Municipality).
The Mikir Hills.
The North Cachar Hills.
The Naga Hills (with outlying tracts).
The North-East Frontier Tract.
The Lushai Hills.

The area and population of the excluded areas cannot be obtained with accuracy, but the area of British territory dealt with under the scheme is approximately 27,500 square miles, and the total population approximately 6,000,000.

Male adults of 20 years of age and over		1,868,933*
Do. do. do. literate		225,584
Do. do. do. literate in English		25,126
Hindus—		
Brahmans	118,005	
Non-Brahmans	3,226,862	
Others†	292,533	
		3,637,400
Muhammadans		1,886,528
Animists		1,109,187
Indian Christians		63,763
Anglo-Indians		437
European British subjects		2,153
Others		14,167
TOTAL		6,713,635

Total population of—	
(a) Shillong municipality	13,639
(b) other municipalities	88,816
Total population of rural areas (approximate)	5,897,600

Towns or over 50,000 population—
Nil.

* These and the following figures include the population of the excluded areas.
† *i.e.*, castes which cause pollution by touch and which bury their dead. *Vide* page 41 of Part I of the Assam Census Report, 1911. These castes are generally described as "untouchables."

CONSTITUTION OF EXISTING LEGISLATIVE COUNCIL

Ex officio (the Chief Commissioner)		1
Nominated members, of whom not more than 9 may be officials		13
Elected members		
(1) by municipalities	2	
(2) by local boards	2	
(3) by landholders	2	
(4) by Muhammadans	2	
(5) by the tea planting community	3	11
TOTAL		25

To which may be added one expert member

NUMBER OF ELECTORS

Municipal commissioners	119
Local board members	217
Landholders	193
Muhammadans	1,188

Scheme for the constitution of and elections to the Provincial Legislative Council.

A —FRANCHISE QUALIFICATIONS

[The cases where prosperty is held or payments made jointly by the members of a joint family or partnership, the family or partnership shall be adopted as the unit for deciding whether the qualification exists, and the vote shall be exercised in the case of a Hindu joint family by the manager thereof and in other cases by the member or partner authorised in that behalf by the family or partnership]

GENERAL *DISQUALIFICATIONS OF ELECTORS*

No person will be qualified to vote at any election, if such person

(*a*) is a female, or
(*b*) is under 21 years of age, or
(*c*) is not a British subject or the subject of any State in India, or
(*d*) has been adjudged by a competent court to be of unsound mind.

QUALIFICATIONS OF ELECTORS

(*i*) *Urban Areas,* i e , *municipalities and cantonments*

Every person will be entered in the electoral roll of the constituency who has a place *of residence in the area or within two miles* of the boundary thereof, and

(*a*) pays in respect of municipal or cantonment rates an aggregate amount of not less than Rs 3, or in the case of the Nowgong municipality of not less than Rs 2, or in the case of the Sylhet municipality not less than Rs 1 8, or

(*b*) pays income-tax, or
(*c*) is a retired and pensioned officer (commissioned or non-commissioned) of the Indian army, or
(*d*) holds a qualification within the area which would entitle him to be entered in the rural roll if the area were not a municipality or cantonment.

(ii) Rural Areas.

Every person will be entered in the electoral roll of the constituency who has a place of residence in the area, and

(*a*) in the districts of Sylhet, Cachar and Goalpara pays as chaukidari tax under Bengal Act VI of 1870 not less than Re. 1 per annum, or
(*b*) in the remainder of the province owns land assessed or assessable at a land revenue of not less than Rs. 15 or pays a local rate of not less than Re. 1, or
(*c*) pays income-tax, or
(*d*) is a retired and pensioned officer (commissioned or non-commissioned) of the Indian army.

In the urban constituency of Shillong one electoral roll will be kept for all electors. In rural constituencies two electoral rolls will be kept, one for Muhammadans and one for non-Muhammadans.

(iii) Landholders' Constituencies.

There will be two constituencies, one for the Assam Valley division and one for the Surma Valley division. Every landholder will be entered in the landholders' electoral roll of each constituency who has a place of residence in the constituency, and

(*a*) holds in his own right as proprietor one or more estates or shares of estates, and pays in respect thereof land revenue of not less than Rs. 500 or local rates of not less than Rs. 125 per annum, or
(*b*) holds the title recognized or conferred by Government of Raja or Nawab or any higher title.

Provided that no landholder shall have more than one vote in either constituency though he may possess more than one of the qualifications above described.

(iv) Planting Constituencies.

Three representatives will be elected by the members of the Assam Valley banch of the Indian Tea Association.

Two representatives will be elected by the members of the Surma Valley branch of the Indian Tea Association.

The election in each case will be conducted in accordance with regulations to be approved by the Governor in Council. Provision should be made to enable the Governor in Council to revise the method of elec-

tion for these constituencies from time to time in order to meet any alteration in the position or constitution of this association *

(v) Commerce and Industry Constituency

The representative of this constituency will be elected by persons whose qualifications will be as follows —

(a) being the owner, or a person appointed by the owner for the purpose of voting on his behalf, of a factory, other than a tea factory, situated in Assam and subject to the provisions of the Indian Factories Act XII of 1911, no owner being entitled to more than one vote, or

(b) being appointed for the purpose of voting by any company having a place of business in Assam and a paid up capital of not less than Rs 25,000 and being a company as defined in section 2 of the Indian Companies Act VII of 1913

B —QUALIFICATIONS OF CANDIDATES

No person will be eligible for election as a member of the Council, if such person

(a) is not a British subject or a subject of any State in India, or
(b) is an official, or
(c) is a female, or
(d) has been adjudged by a competent court to be of unsound mind, or
(e) is under 25 years of age, or
(f) is an uncertificated bankrupt or an undischarged insolvent, or
(g) has, in circumstances which, in the opinion of the Governor in Council, involve moral turpitude, been (i) dismissed from the service of Government, or (ii) sentenced by a criminal court to imprisonment (such sentence not having subsequently been reversed or remitted or the offender pardoned), or
(h) has been dismissed or is under suspension from practising as a legal practitioner by order of any competent court

Provided that in cases (g) and (h) the disqualification may be removed by an order of the Governor in Council in this behalf

No person shall be eligible for election as a member of the Council to represent

(1) an urban or rural constituency unless such person is registered as an elector in an urban or rural constituency within the province, or
(2) a landholders', planting or commerce and industry constituency, unless such person is registered as an elector in the constituency for which he seeks election

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* The term "member" will include any person entitled to exercise the rights and privileges of membership on behalf and in the name of any firm or joint stock company or corporation registered as a member

C.—PLURAL VOTING.

At each election to the Council no elector is to vote in more than one of the non-Muhammadan and Muhammadan constituencies, but an elector will be at liberty, in addition to voting in one of these constituencies, to exercise any votes to which he may be entitled for landholders', planting or commerce and industry seats.

D.—CONSTITUTION OF THE COUNCIL.

The Council will be constituted as follows:—

Urban seat		1
Non-Muhammadan rural seats		18
Muhammadan rural seats		12
Landholders' seats		2
Planting seats		5
Commerce and industry seat		1
Representatives appointed by nomination—		
(1) European and Anglo-Indian	1	
(2) Indian Christian	1	
(3) Labour	1	
(4) Excluded tracts	1	
(5) Others	1	
		5
Official seats—		
Ex-officio	4	
Nominated	5	
		9
TOTAL		53
To which may be added by the Governor one expert (official or non-official)		1
		54

The *ex-officio* members will be the Governor, two members of the Executive Council, and the Legal Remembrancer.

E.—LIST OF CONSTITUENCIES.

District.	Number of seats	Male population in thousands.
URBAN SEAT—1.		
Shillong Municipality	1	7
NON-MUHAMMADAN RURAL SEATS—18.		
Cachar	1	164
Sylhet	6	569
SURMA VALLEY	7	733

District	Number of seats		Male population in thousands	
Goalpara	2		207	
Kamrup	2		306	
Darrang	1		188	
Nowgong	1		147	
Sibsagar	3		348	
Lakhimpur	2		241	
ASSAM VALLEY		11		1 437
TOTAL		18		2 170

MUHAMMADAN RURAL SEATS—9

District	Number of seats		Male population in thousands	
Cachar	1		82	
Sylhet	7		699	
SURMA VALLEY		8		781
Goalpara	2		112	
Kamrup, Darrang, Nowgong, Sibsagar, Lakhimpur	2		~~	
ASSAM VALLEY		4		189
TOTAL		12		970

Where more seats than one are assigned to a district the district will, so far as circumstances permit, be divided into the necessary number of single member constituencies by the Governor in Council

The total number of electors for the above constituencies is estimated roughly as follows —

Non Muhammadan (19 seats)	203 000
Muhammadan (9 seats)	97 000
TOTAL	300 000

The electorate will amount to approximately 5 per cent of the total population

Explanatory Notes

1 The variations in the amount of municipal tax in the qualification proposed for urban areas follow the existing municipal franchise

2 The variations in the qu[illegible] by the fact that the districts of Sylhet, C[illegible] settled, and the remaining districts tempo[illegible]ukidari tax varies from village to village b[illegible]e payee is a person of ordinary status, with [illegible]00

3 The Assam Valley and Surma Valley branches of the Indian Tea Association represent the important interests of the tea planters, mainly European of the respective valleys

4 The principal large industries of Assam, other than tea, are mines collieries, saw mills oil mills, etc

		No of seats	No of electors
(*xvii*)	Muhammadan community in the Presidency of Bombay	1	8
(*xviii*)	Muhammadan community in the Presidency of Bengal	1	393
(*xix*)	Muhammadan community in the United Provinces of Agra and Oudh	1	650
(*xx*)	Muhammadan community in Bihar and Orissa	1	306
(*xxi*)	Bengal Chamber of Commerce	1	190
(*xxii*)	Bombay Chamber of Commerce	1	119

In addition, the Muhammadan members of the class specified in subhead (xiii) elect one member alternately with the class specified in subhead (*xiii*)

Scheme for the constitution of and elections to the Indian Legislative Assembly.

A.—CONSTITUTION OF THE ASSEMBLY

The Assembly will be constituted as follows —

Elected members		80
Representatives appointed by nomination		14
Officials—		
Ex officio	7	
Nominated	19	
	—	26
		120
or, including the Governor General		121

DETAILS OF ELECTED SEATS

PROVINCE	Non Muhammadan seats	Muhammadan seats	Sikh seat	LANDHOLDERS Non Muhammadan	LANDHOLDERS Muhammadan	LANDHOLDERS Sikh	European commerce	Indian commerce	TOTAL
Madras	[illegible]	2		1			1	1	12
Bombay	4	3		1	1		1	2	[illegible]
Bengal	5	3		1	1		2	1	13
United Provinces	6	3		1	1		1		12
Punjab	2	4	1		1	1			9
Bihar and Orissa	6	2		1					9
Central Provinces	4	1							5
Assam	1	1					1		3
Delhi	1								1
TOTAL	36	19	1	5	4	1	6	4	76
				10					
							Reserved for Burma		4
							TOTAL		80

B.—METHOD OF REPRESENTATION.

(i) *General Constituencies—36.*

Madras	7
Bombay	4
Bengal	5
United Provinces	6
Punjab	2
Bihar and Orissa	6
Central Provinces	4
Assam	1
Delhi	1
TOTAL	36

With the exception of the member for Delhi Province, these representatives will be elected by the non-official members, other than Muhammadans and (in the case of the Punjab) Sikhs, of the respective provincial legislative councils. One representative will be elected for Delhi Province by persons who have a place of residence in the province and possess qualifications corresponding to those prescribed in urban or rural areas for electors to the provincial legislative council of the Punjab.

(ii) *Muhammadan Constituencies (general)—19.*

Madras	2
Bombay	3
Bengal	3
United Provinces	3
Punjab	4
Bihar and Orissa	2
Central Provinces	1
Assam	1
TOTAL	19

These representatives will be elected by the Muhammadan non-official members of the respective provincial legislative councils.

(iii) *Sikh Constituency—1 seat.*

The member will be elected by the Sikh non-official members of the Punjab provincial legislative council.

(iv) *Landholders' Constituencies—10 seats.*

(*a*) *Bengal—2 seats.*—One representative will be elected by the non-Muhammadan landholders of the presidency entered on the electoral roll of the landholders' constituency for the provincial legislative council and voting in accordance with regulations to be approved by the Governor General in Council.

One representative will be elected by the Muhammadan landholders of the presidency entered in the electoral roll of the landholders' constituency for the provincial legislative council, and voting in accordance with regulations to be approved by the Governor General in Council.

(b) *Madras—1 seat*.—The representative will be elected by the zamindars and landholders of the presidency entered in the electoral roll for the zemindars' and landholders' constituencies of the provincial legislative council, and voting in accordance with regulations to be approved by the Governor General in Council

(c) *Bombay—2 seats*.—One representative will be elected by the Muhammadan zamindars and jagirdars of Sind entered in the electoral roll of the zamindars' and jagirdars' constituency in the provincial legislative council, and voting in accordance with regulations to be approved by the Governor General in Council

One representative will be elected by the sardars of the Deccan and Gujarat entered in the electoral rolls of the constituencies of the sardars of the Deccan and Gujarat in the provincial legislative council, and voting in accordance with regulations to be approved by the Governor General in Council

(d) *United Provinces—2 seats*.—One representative will be elected by the non-Muhammadan taluqdars of Oudh and landholders of Agra entered in the electoral roll of the constituencies of the taluqdars of Oudh and landholders of Agra in the provincial legislative council, and voting in accordance with regulations to be approved by the Governor General in Council

One representative will be elected by the Muhammadan taluqdars of Oudh and landholders of Agra entered in the electoral roll of the constituencies of the taluqdars of Oudh and landholders of Agra in the provincial legislative council, and voting in accordance with regulations to be approved by the Governor General in Council

(e) *Punjab—2 seats*.—One representative will be elected by the Muhammadan landholders of the Punjab entered in the electoral roll of the landholders' constituency in the provincial legislative council, and voting in accordance with regulations to be approved by the Governor General in Council

One representative will be elected by the Sikh landholders of the Punjab entered in the electoral roll of the landholders' constituency in the provincial legislative council, and voting in accordance with regulations to be approved by the Governor General in Council

(f) *Bihar and Orissa—1 seat*.—The representative will be elected by the landholders of Bihar and Orissa entered in the electoral roll of the landholders' constituency in the provincial legislative council, and voting in accordance with regulations to be approved by the Governor General in Council

(v) *European Commerce Constituencies—6 seats*

(a) *Madras—1 seat*.—The representative will be elected by the members of the Madras Chamber of Commerce voting in accordance with regulations to be approvel by the Governor General in Council

(b) *Bombay—1 seat*.—The representative will be elected by the members of the Bombay Chamber of Commerce voting in accordance with regulations to the approved by the Governor General in Council

(c) *Bengal—2 seats.*—Two representatives will be elected by the members of the Bengal Chamber of Commerce voting in accordance with regulations to be approved by the Governor General in Council.

(d) *United Provinces—1 seat.*—The representative will be elected by the members of the Upper India Chamber of Commerce voting in accordance with regulations to be approved by the Governor General in Council.

(e) *Assam—1 seat.*—The representative will be elected by the members of the Assam Valley and Surma Valley branches of the Indian Tea Association voting in accordance with regulations to be approved by the Governor General in Council.*

(vi) *Indian Commerce Constituencies—4 seats.*

(a) *Madras—1 seat.*—The representative will be elected by the members of the Southern Indian Chamber of Commerce voting in accordance with regulations to be approved by the Governor General in Council.

(b) *Bombay—2 seats.*—One representative will be elected by the members of the Bombay Millowners' Association and the Ahmedabad Millowners' Association voting in accordance with regulations to be approved by the Governor General in Council.

One representative will be elected by the members of the Indian Merchants' Chamber and Bureau voting in accordance with regulations to be approved by the Governor General in Council.

(c) One member will be elected by the Bengal National Chamber of Commerce, the Marwari Association and the Mahajana Sabha voting in accordance with regulations to be approved by the Governor General in Council.*

C.—QUALIFICATION OF CANDIDATES.

In the case of a seat for which election is made by members of a provincial legislative council, the candidate, if not already a member of that council, shall have the qualifications which would entitle him to stand as a candidate for election to that council. Provided that in any case in which registration as an elector in a constituency is laid down as a qualification for candidature, the candidate will be held to comply with the condition if he is registered as an elector in any constituency in the province.

D.—METHOD OF VOTING.

In cases where election is made by the non-official members of the provincial legislative councils, every member entitled to vote will have as many votes as the number of seats to be filled up, and may record all his votes in favour of one candidate or distribute them as he pleases.

* The term "member" will include any person entitled to exercise the rights and privileges of membership on behalf and in the name of any firm or joint stock company or corporation registered as a member.

APPENDIX X.

Council of State.

A.—PROPOSALS EMBODIED IN THE JOINT REPORT.

Officials—		
Ex officio	7	
Nominated	18	
	—	25
Nominated non officials		4
Elected members—		
(1) by the non official members of Provincial Legislative Councils	15	
(2) by Muhammadans	2	
(3) by landholders	2	
(4) by Chambers of Commerce	2	
	—	21
TOTAL		50
or, including the Governor General		51

B.—PROPOSED CONSTITUTION OF COUNCIL OF STATE.

Province	Total population (millions)	Muhammadan population (millions)	Sikh population (millions)	General	Distributions Proposed: Muhammadans	Sikhs	Landholders	TOTAL
Madras	40	3		2	1			3
Bombay	19½	4		2	1			3
Bengal	45	24		2	1		½	3½
United Provinces	47	6½		1	1		1	3
Punjab	19½	11	2	1	1	1		
Bihar and Orissa	32½	3½		1	1		½	2½
Central Provinces	12½	½		1	½			1½
Assam	6½	2		1	½			1½
TOTAL				11	7	1	2	21

Representatives of European Chambers of Commerce	2
Reserved for Burma	1
TOTAL	24

SUMMARY OF PROPOSED COUNCIL.

Elected members—		
General	11	
Muhammadans	7	
Sikh	1	
Landholders	2	
European commerce	2	
		23
Reserved for Burma		1
Representatives appointed by nomination		4
Official—		
Ex-officio	7	
Nominated	21	
		28
TOTAL		56
Including the Governor General		57

C. METHODS OF REPRESENTATION.

(a) *General Constituencies—11.*

Madras	2
Bombay	2
Bengal	2
United Provinces	1
Punjab	1
Bihar and Orissa	1
Central Provinces	1
Assam	1

These representatives will be elected by the non-official members, other than Muhammadans and (in the case of the Punjab) Sikhs, of the respective provincial legislative councils.

NUMBER OF ELECTORS.

Madras	80
Bombay	60
Bengal	66
United Provinces	68
Punjab	22
Bihar and Orissa	56
Central Provinces	46
Assam	27

To which will be added the non-official members other than Muhammadans, and (in the case of the Punjab) Sikhs, appointed by nomination.

In Madras, Bombay and Bengal every member qualified to vote will have two votes and may record both his votes in favour of one candidate.

(ii) *Muhammadan Constituencies—7*

Madras	1
Bombay	1
Bengal	1
United Provinces	1
Punjab	1
Bihar and Orissa	1
Central Provinces } alternately Assam }	1

These representatives will be elected by the Muhammadan non official members of the respective provincial legislative councils

NUMBER OF ELECTORS

Madras	13
Bombay	27
Bengal	34
United Provinces	27
Punjab	30
Bihar and Orissa	17
Central Provinces	7
Assam	12

To which will be added Muhammadan non official members if any appointed by nomination

(iii) *Sikh Constituency—1*

Punjab	1

The representative will be elected by the nine Sikh non official members of the Punjab legislative council

(iv) *Landholders' Constituencies—2*

Bengal and Bihar and Orissa	1
United Provinces	1

One representative will be elected by the members representing landholders constituencies in the Bengal and Bihar and Orissa legislative councils voting jointly

NUMBER OF ELECTORS

Bengal	5
Bihar and Orissa	5
TOTAL	10

One representative will be elected by the members representing the taluqdars of Oudh and Agra landholders' constituencies in the United Provinces legislative council, voting jointly

NUMBER OF ELECTORS

Taluqdars of Oudh	5
Agra landholders	1
TOTAL	6

(v) *European Commerce Constituencies—2.*

One representative will be elected by the members of the Bengal, Burma and Upper India Chambers of Commerce, voting jointly in accordance with regulations to be approved by the Governor General in Council.

One representative will be elected by the members of the Bombay, Karachi and Madras Chambers of Commerce, voting jointly in accordance with regulations to be approved by the Governor General in Council.*

D.—QUALIFICATIONS OF CANDIDATES.

In the case of a seat for which election is made by members of a provincial legislative council, the candidate, if not already a member of the Indian Legislative Assembly or of a provincial legislative council, shall have the qualifications which would entitle him to stand as a candidate for election to some provincial legislative council in India.

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* The term "member" will include any person entitled to exercise the rights and privileges of membership on behalf and in the name of any firm or joint stock company or corporation registered as a member.

APPENDIX XI.

Suggestions for the definition of the terms "European" and "Anglo-Indian."

1 "EUROPEAN"

Every person of European descent in the male line, being a British subject and resident in British India, who either was born in or has a domicile in the British Isles, Canada, Newfoundland, Australia, New Zealand or the Union of South Africa, or whose father was so born or has or had, up to the date of the birth of the person seeking registration as an elector, such a domicile

2 "ANGLO-INDIAN"

Every person, being a British subject and resident in British India, of (*a*) European descent in the male line who is not comprised in the above definition, or (*b*) mixed Asiatic and non-Asiatic descent, whose father, grandfather or more remote ancestor in the male line was born in the continent of Europe, Canada, Newfoundland, Australia, New Zealand, the Union of South Africa or the United States of America, and who is not entered in the European electoral roll

NOTE —In applying the above definitions it is proposed that the declaration of an elector that he is a European or Anglo Indian shall be accepted by the officer charged with the preparation of the electoral roll, unless he is satisfied that the declaration is not made in good faith, in which case the officer shall record in writing his reasons for refusing to accept the declaration of the elector

The proposal to enfranchise persons domiciled elsewhere than in the United Kingdom will be subject to any action which may be taken in view of the reciprocity resolution passed at the Imperial Conference held in 1917.

APPENDIX XII.

Names of Added Members.

GOVERNMENT OF INDIA.

1. The Hon'ble Mr. A. P. Muddiman, C.I.E., I.C.S., Secretary to the Government of India in the Legislative Department.
2. The Hon'ble Khan Bahadur Mian Muhammad Shafi, C.I.E., Member of the Imperial Legislative Council.

MADRAS.

1. M. R. Ry. Diwan Bahadur L. D. Swamikannu Pillai Avergal, I.S.O., Collector of Nellore.
2. The Hon'ble Diwan Bahadur A. Subbarayulu Reddiar Avargal, Member of the Provincial Legislative Council.

BOMBAY.

1. L. C. Crump, Esq., I.C.S.
2. K. Natarajan, Esq.

BENGAL.

1. The Hon'ble Mr. C. J. Stevenson Moore, C.V.O., I.C.S., Member of the Board of Revenue.
2. The Hon'ble Dr. Abdulla-al-Mamun Suhrawardy, Member of the Local Legislative Council.

THE UNITED PROVINCES.

1. The Hon'ble Mr. H. M. R. Hopkins, I.C.S., Commissioner of the Meerut Division.
2. The Hon'ble Mr. C. Y. Chintamani. Member of the Provincial Legislative Council.

THE PUNJAB.

1. The Hon'ble Mr. P. J. Fagan, C.S.I., I.C.S., Financial Commissioner.
2. The Hon'ble Sardar Bahadur Sunder Singh Majithia, Member of the Imperial Legislative Council.

BIHAR AND ORISSA.

1. The Hon'ble Mr. H. McPherson, C.S.I., I.C.S., Chief Secretary.
2. The Hon'ble Rai Bahadur Krishna Sahai, Member of the Imperial Legislative Council.

THE CENTRAL PROVINCES AND BERAR.

1. C. U. Wills, Esq., I.C.S.
2. Sitacharan Dube, Esq., Chairman of the District Council, Hoshangabad.

ASSAM.

1. The Hon'ble Colonel P. R. T. Gurdon, C.S.I., Commissioner of the Assam Valley Districts.
2. The Hon'ble Khan Bahadur Maulvi Saiyid Abdul Majid, Member of the Provincial Legislative Council.

Mr H D COGGAN, representing the Central Provinces and Berar Mining Association
Mr B S NIYOGI, representing the Central Provinces Congress Committee
Mr C B PARAKH, representing the Graduates Association of the Central Provinces and Berar

ASSAM

The Hon'ble Mr J E WEBSTER, C I E, I C S, Chief Secretary to the Chief Commissioner
Mr J McSWINEY, I C S, Director of Land Records and Agriculture
Babu KSHITISH CHANDRA DAS, representing the People's Association of Sylhet
Maulvi ABDUR RAHIM CHAUDHURI, representing the Surma Valley Muhammadan Zamindars' Association, Sylhet
The Hon'ble Mr H MILLER, C I E, representing the Assam Valley Branch of the Indian Tea Association
Mr. A D PICKFORD, representing the Indian Tea Association
The Hon'ble COLONEL W MASON, representing the Surma Valley Branch of the Indian Tea Association
Babu PYARI MOHAN DAS, representing the Mahishya Samitee, Sunamganj
Rai Sahib PADMANATH GOHAIN BARUA, representing the Ahom Association
Raja PRABHAT CHANDRA BARUA of Gauripur, representing the zamindars of Gauripur
SRIJUT NABIN CHANDRA BARDALOI, representing the Assam Association
Maulvi DERAJ UD-DIN AHMED, representing the Anjumani-Taidi Islam

BENGAL

The Hon'ble Mr J H KERR, Chie[illegible] Bengal
The Hon'ble Mr W E CRUM, rep[illegible] Commerce
Mr W L TRAVERS, representing [illegible]
Mr A D PICKFORD, representing [illegible]
[illegible]
[illegible] Bengal Landholders' Association
[illegible] dian Association
[illegible] the Central National Muham-
[illegible]
Mr C H C ARIFF, [illegible]
Raja KISHORI LAL [illegible]
Babu DEBI PRASAD [illegible]
Babu AMULYADHAN [illegible] ommerce
Mrs SAROJINI NAIDU [illegible]
Mr TARIT BHUSHAN [illegible]
Mr. B K LAHIRI, r[illegible]
Mr C C GHOSH, r[illegible]
The Hon'ble Mr A K FAZL-UL-HAQ
Maulvi MUHAMMAD ALIM-UZ-ZAMAN CHAUDHURI, representing the Bengal Presidency Muslim League
Colonel A. J PUGH
Raja MANI LAL SINGH RAY of Chakdighi
The Hon'ble Kumar SHIB SHEKHARESHWAR ROY, representing the Northern Bengal Zamindars' Association
The Hon'ble Mr AMINUR RAHMAN
The Hon'ble Babu AMBIKA CHARAN MAJUMDAR
The Hon'ble Sir RAJENDRA NATH MOOKHERJEE, K C I E
Rai JADU NATH MAJUMDAR Bahadur
Raja MANMATHA NATH ROY CHAUDHURI representing the Eastern Bengal Landholders' Association
Maulvi AMIR UD-DIN AHMED, representing the Bengal Provincial Muhammadan Association

The Hon'ble Pandit Madan Mohan Malavia, } representing the United Provinces
The Hon'ble Pandit Moti Lal Nehru, } Provincial Congress Committee.
Mr. Ibni Ahmed, } representing the United Provinces Muslim Defence Asso-
Saiyid Agha Haidar, } ciation.
Mr. C. T. Robbie, representing the Anglo-Indian Federation.
The Hon'ble Raja Sir Rampal Singh, K.C.I.E., representing the Taluqdars of Oudh.
Pandit Jagat Narayan.
Munshi Narayan Prasad Asthana.
The Hon'ble Mr. T. Smith, } representing the Upper India Chamber of Commerce.
Mr. J. G. Ryan, }
Mr. A. P. Sen.
Rai Anand Swarup Bahadur.
Rai Krishnaji.
Pandit Govind Ballabh Pant.
The Hon'ble Saiyid Wazir Hasan, } representing the United Provinces Provincial
The Hon'ble Saiyid Raza Ali, } Moslem League.

THE PUNJAB.

The Hon'ble Mr. H. D. Craik, I.C.S., Officiating Additional Secretary to the Government of the Punjab.
The Rev. Mr. O. Younghusband, representing the Punjab Provincial Branch of the Anglo-Indian Empire League.
Mr. L. A. Bull.
The Hon'ble Mr. H. J. Maynard, C.S.I., I.C.S.
Mian Haq Nawaz, representing the Punjab Provincial Muslim Association and the All-India Muslim Association.
Saiyid Mohsin Shah, representing the Punjab Provincial Muslim League.
Mirza Bashir Ahmad, representing the Ahmadiyya Community.
Chaudhuri Zafarullah Khan, representing the Ahmadiyya Community.
Sardar Kharak Singh, representing the Punjab Zemindars' Central Association.
Mr. Sewaram Singh, representing the Chief Khalsa Diwan.
Mr. Duni Chand, representing the Provincial Congress Committee.
Raja Narendra Nath, representing the Punjab Hindu Sabha.
The Hon'ble Rao Bahadur Chaudhuri Lal Chand.
The Hon'ble Sardar Bahadur Gajjan Singh.
The Hon'ble Sir Malik Umar Hayat Khan, Tiwana, K.C.I.E., M.V.O., representing the Punjab Muslim Association.
Mr. Barkat Ali, representing the Provincial Congress Committee and the Provincial Conference Committee.
Lala Gulshan Rai.
Mrs. S. D. Chaudhuri, } representing the All-India Women's Association.
Mrs. H. Roshan Lal. }

THE CENTRAL PROVINCES.

The Hon'ble Mr. F. S. A. Slocock, C.I.E., I.C.S., Chief Secretary to the Chief Commissioner.
Khan Sahib Maulvi Abdul Kadir, representing the Muhammadan community in Berar.
Mr. Ganesh Akaji Gavai, representing the Depressed India Association.
Mr. K. S. Jatar, I.C.S., Inspector-General of Registration.
Rao Bahadur R. N. Mudholkar, C.I.E.
The Hon'ble Rao Bahadur N. K. Kelkar.
Rai Bahadur D. N. Chaudhuri.
Mr. Raghubir Prasad.
Mr. J. B. Deshmukh.
Mr. Madhorao Shrihari Aney, representing the Berar Provincial Congress Committee.
The Hon'ble Rao Bahadur M. G. Deshpande.

Mr H D COGGAN, representing the Central Provinces and Berar Mining Association
Mr B S NIYOGI, representing the Central Provinces Congress Committee
Mr C B PARAKH representing the Graduates Association of the Central Provinces and Berar

ASSAM

The Hon'ble Mr J E WEBSTER, C I E, I C S, Chief Secretary to the Chief Commissioner
Mr J McSWINEY, I C S, Director of Land Records and Agriculture
Babu KSHITISH CHANDRA DAS, representing the People's Association of Sylhet
Maulvi ABDUR RAHIM CHAUDHURI, representing the Surma Valley Muhammadan Zamindars' Association, Sylhet
The Hon'ble Mr H MILLER C I E representing the Assam Valley Branch of the Indian Tea Association
Mr A D PICKFORD, representing the Indian Tea Association
The Hon'ble COLONEL W MASON, representing the Surma Valley Branch of the [illegible]
B [illegible] the Mahishya Samitee, Sunamganj
R [illegible] representing the Ahom Association
P [illegible] Gauripur, representing the zamindars of Gauripur
SRIJUT NABIN CHANDRA BARDALOI, representing the Assam Association
Maulvi DERAJ UD-DIN AHMED, representing the Anjumani Taidi Islam

BENGAL

The Hon'ble Mr J H KERR, Chief Secretary to the Government of Bengal
T[illegible] l Chamber of Commerce
[illegible] ' Association
[illegible] ssociation
T[illegible]
T[illegible]
Babu DWARKANATH CHAKRAVARTI representing the Bengal Landholders' Association
Dr PRAMATHA NATH BANERJEE, representing the Indian Association
Khan Bahadur Maulvi ABDUS SALAM representing the Central National Muhammadan Association
Mr C H C[illegible]
Raja KISHO[illegible]
Babu DEBI [illegible]
[illegible] ommerce
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] CHAUDHURI, representing the Bengal Presi[illegible]
[illegible]
Raja MANI LAL SINGH RAY of Chakdighi
The Hon ble Kumar SHIB SHEKHARESHWAR ROY, representing the Northern Bengal Zamindars' Association
The Hon'ble Mr AMINUR RAHMAN
The Hon'ble Babu AMBIKA CHARAN MAJUMDAR
The Hon'ble Sir RAJENDRA NATH MOOKHERJEE, K C I E
Rai JADU NATH MAJUMDAR Bahadur
Raja MANMATHA NATH ROY CHAUDHURI, representing the Eastern Bengal Landholders' Association
Maulvi AMIR UD-DIN AHMED, representing the Bengal Provincial Muhammadan Association

The Hon'ble Nawab SAIYID NAWAB ALI CHAUDHURI, Khan Bahadur, C.I.E.
Mr. T. E. WELBY, representing the European Association.
Maulvi AGA MUHAMMAD KAZIM SHIRAZI, representing the Society of Maulvis and Ulamas.
Mr. S. C. MUKERJI, representing the Indian Christian Association, Bengal.
Mr. J. W. CHIPPENDALE, M.A., B.L., representing the Anglo-Indian Association.
Dr. S. P. SARBADHIKARI, C.I.E., B.A., M.D., representing the University of Calcutta.

MADRAS.

Mr. H. G. STOKES, C.I.E., I.C.S., Acting Secretary to the Government of Madras, Local and Municipal Department.
M. R. Ry. Rai Sahib V. T. KRISHNAMA ACHARIYAR AVARGAL, Officer on Special Duty.
The Hon'ble Rao Bahadur B. N. SARMA GARU,
The Hon'ble Rao Bahadur T. RANGA ACHARIYAR AVARGAL,
M. R. Ry. C. GOPAL MENON AVARGAL,
Khan Bahadur MUHAMMAD ABDUL KUDDUS Badshah Sahib Bahadur,
M. R. Ry. K. NAGESWARA RAO PANTULU GARU,
M. R. Ry. T. V. VENKATARAMA AYYAR AVARGAL,
} representing the Madras Mahajana Sabha.

M. R. Ry. Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR AVARGAL,
M. R. Ry. G. A. NATESA AYYAR AVARGAL,
M. R. Ry. T. V. GOPALASWAMI MUDALIYAR AVARGAL,
The Hon'ble YAKUB HASAN Sahib Bahadur,
} representing the Madras Provincial Congress Committee.

Dr. B. PATTABHI SITARAMAYYA, representing the Andhra Conference Committee, Guntur.
M. R. Ry. C. P. RAMASWAMI AYYAR AVARGAL.
The Hon'ble Diwan Bahadur M. RAMACHANDRA RAO PANTULU GARU.
M. R. Ry. K. SRINIVASA AYYANGAR AVARGAL.
M. R. Ry. A. RANGASWAMI AYYANGAR AVARGAL.
M. R. Ry. Diwan Bahadur D. SESHAGIRI RAO PANTULU GARU.
The Hon'ble Rao Bahadur N. SUBBA RAO AVARGAL.
Khan Bahadur MUHAMMAD ABDUL KUDDUS Badshah Sahib Bahadur,
The Hon'ble YAKUB HASAN Sahib Bahadur,
Maulana ABDUS SUBHAN Sahib Bahadur,
Khan Bahadur GHULAM MUHAMMAD SAHIB MAHAJIR Sahib Bahadur,
MUHAMMAD MUAZZAM Sahib Bahadur,
} representing the Madras Presidency Muslim League.

MUHAMMAD USMAN Sahib Bahadur, representing the Muthialpet Muslim Anjuman, Madras.
MANDHATA GURUCHAND PATNAIK, representing the Utkal Hitaishini Samaj, Parlakimedi.
M. R. Ry. Rai Sahib A. P. PATRO GARU.
M. R. Ry. Raja V. VASUDEVA RAJA AVARGAL, C.I.E., of Kollengode, representing the Kerala Janmi Sabha, Malabar.
The Hon'ble B. RAJA RAJESWARA SETHUPATY, Raja of Ramnad.
M. R. Ry. Diwan Bahadur P. KESAVA PILLAI AVARGAL,
M. R. Ry. V. CHAKKARAI CHETTI AVARGAL,
M. R. Ry. V. PAKKIRISWAMI PILLAI AVARGAL,
M. R. Ry. GURUSWAMI CHATTI GARU,
M. R. Ry. SAMI VENKATACHALAM CHETTI AVARGAL,
} representing the Madras Presidency Association,

The Right Revd. E. H. M. WALLER, Bishop in Tinnevelly and Madura.
M. R. Ry. T. ARUMAINATHA PILLAI AVARGAL, representing the Catholic Indian Association of Southern India.
Mr. M. D. DEVADOSS, Barrister-at-Law, representing the Indian Christian Association.
The Revd. W. MESTON, representing the Missionary Educational Council of South India.

Mr H M P RAE, representing the Madras Branch of the European Association
Mr J W CRUSHA,
Mr J F SIMPSON, representing the Madras Chamber of Commerce
Mr H H CHETTLE,
Khan Bahadur MUHAMMAD ABDUL KUDDUS Badshah Sahib Bahadur,
The Hon'ble YAKUB HASAN Sahib Bahadur,
C ABDUL HAKIM Sahib Bahadur
M R Ry A RANGASWAMI AYYANGAR AVARGAL,
M R Ry CHITTI BABU NAYUDU GARU,
M R Ry VENKATACHALAM CHETTIAR AVARGAL,
— representing the Southern India Chamber of Commerce
The Hon'ble Mr J H THONGER
Mr A T LUKER,
Mr R J C ROBERTSON,
— representing the Madras Trades Association
The Revd E M MACPHAIL

BOMBAY

Mr L C CRUMP, I C S representing the Government of Bombay
The Hon'ble Major C FERNANDEZ, M D, I M S
Revd CANON D L JOSHI, on behalf of the Indian Christian Association
Lieutenant-Colonel H A J GIDNEY, I M S (retired) representing the Bombay branch of the Anglo-Indian Empire League
Sir JAMSETJI JIJIBHOY, BART
Mr W A HAIG BROWN, representing the Bombay branch of the European Association
[illegible] National Union
[illegible] Millowners' Association
[illegible] aratha Aikyechu Sabha
Mr BHIMRAO R AMBEDKAR
The Hon'ble Mr V J PATEL
The Hon'ble Rao Sahib HARILAL DESAIBHAI DESAI
Mr CHUNILAL V MEHTA, representing the Indian Merchants Chamber and Bureau
Mr A B LATTHE, Pleader, Belgaum
The Hon'ble Mr RAGHUNATH PURUSHOTTAM PARANJPYE
Mr V R KOTHARI, representing the Deccan Ryots' Association, Poona
Mr UMAR SOBHANI,
Mr S G BANKER, — representing the Bombay branch of the Home Rule League
Mr H N APTE, representing the Deccan Sabha, Poona
Mr N C KELKAR
The Hon'ble Mr D V BELVI
Rao Bahadur THAKORRAM P KAPILRAM
Mr N M JOSHI
The Hon'ble Rao Bahadur V S NAIK
Mr P R CHIKODI
The Hon'ble Mr S J GILLUM,
Sir THOMAS BIRKETT, Kt, — representing the Bombay Chamber of Commerce
Mr AMBALAL SARABHAI, representing the Ahmedabad Millowners' Association
[illegible] avji THAKERSEY, representing the Bombay Native [illegible] ation
[illegible] HIDAYAT ULLAH
Mr B V JADHAV
The Hon'ble Sir FAZULBHOY CURRIMBHOY, Kt, C I E
Mr H P MODY
Sardar VISHNU NARAYAN MUTALIK, representing the Inamdars' Central Association



APPENDIX XV.

Letters from certain leaders of the non-Brahman Hindus in Madras declining to appear before the Committee.

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(1) Letter, dated the 9th January 1919, from Dr. T. M. Nair to the Government of Madras.

I have the honour to acknowledge receipt of your letter Public Department (Reforms) No 104-I R , dated the 7th January 1919, and in reply beg to say that I have neither the time nor the inclination to express my views on questions to be considered by the Franchise and Division of Functions Committees As I understand that the Committees do not intend to sit in public and to formally record evidence I am most unwilling to take the trouble of appearing before those Committees as I have painful experience of the results of such private and informal investigations I further take exception to the constitution of the Committee, especially to the non-official Indian section thereof, and I am not anxious to be sat in judgment on by my political opponents

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(2) Letter, dated the 12th January 1919, from Diwan Bahadur P. Theagaroya Chetty Garu, Vice-President, South Indian Liberal Federation, to the Government of Madras.

I have the honour to acknowledge the receipt of your letter, dated 9th January 1919, requesting my Association to intimate to you the names of not more than six members of the Federation who will represent it before the Committees

In reply I desire to state that the members of the Federation are not willing to appear before the Committees as representatives of the Federation I may be permitted to draw your attention to the resolution passed at the extraordinary session of the South Indian Non-Brahmin Confederation held on October 20th, 1918, and communicated to the Government of Madras and to the further resolution passed at the second session of the Non-Brahmin Confederation held on the 11th and 12th January 1919, copies of both of which are herewith enclosed

Resolution passed at the extraordinary session

In view of the partial and partisan character [illegible]
view of the studied silence of the Government towa[illegible]
protest of non Brahmins in this matter and in view[illegible]
ment to the advocate of Brahmin oligarchy in [illegible]

which depends for its evolution upon British authority, this Confederation solemnly resolves that all self-respecting non-Brahmins should decline to appear before, or in any other way co-operate with, the Reform Committees unless one or more non-Brahmin members representing the views of the South Indian Liberal Federation are appointed to each of the Committees.

Resolution passed at the second session.

In view of the resolution passed at the extraordinary session of the non-Brahmin Confederation declining to appear before or co-operate with the Reform Committees, this Confederation resolves not to depute any of its representatives to give evidence before the said Committees and declares that it will not be responsible for any evidence that may be given by any gentleman connected with the non-Brahmin movement.

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(3) Letter, dated the 15th January 1919, from the Madras Adi Dravida Jana Sabha, to the Government of Madras.

In reply to your letter, dated the 9th instant, we have the honour to state that as representatives of the above Sabha we would appear before he Franchise Committee provided the two persons, Messrs. V. S. Sreenivasa Sastriar and Surendra Nath Bannerjee, to whose presence on the Committee we have already objected, are removed from the Committee during our appearance before it.

We have already stated that Mr. Sreenivasa Sastriar, as a champion and apologist of Brahmin oligarchy in preference to British bureaucracy, and Mr. Bannerjee, as one who advised our Sabha and the community which it represents "to enlist themselves in the German Army fighting against freedom and civilization," because we said in our address to Lord Chelmsford and the Right Hon'ble Mr. Montagu that "we would fight to the last drop of our blood any attempt to transfer the seat of authority in this country from British hands to the so-called high caste Hindus who had been oppressing us in the past and would do so again, but for the British Government, are unfit to sit in judgment over any representation we may make.

If they continue to sit on the Committee we have no other alternative as self-respecting and loyal citizens of the British Empire, than that of respectfully declining to appear before the aforesaid Committee.

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(4) Letter, dated 16th January 1919, from M. R. Ry. Rai Bahadur K. Venkata Reddi Nayudu Garu, to the Government of Madras.

With reference to the Government intimation, dated 9th January 1919, informing me that my evidence before the Reform Committees, now sitting in Madras, will be heard on the 17th and 20th instant, I beg to state that a recent resolution of the South Indian Non-Brahmin Confederation and considerations of party make it impossible for me to appear before the said committees. I am therefore sorry to state that I am unable to appear and give evidence before them.

COMMITTEE ON DIVISION OF FUNCTIONS.

To

HIS EXCELLENCY THE GOVERNOR-GENERAL IN
COUNCIL.

YOUR EXCELLENCY,

In accordance with the directions of the Right Hon'ble the Secretary of State for India we have the honour to forward to Your Excellency, for submission to the Secretary of State our report on questions connected with the division of functions between the central and provincial Governments, and in the provincial Governments between the Executive Council and Ministers

2 The terms of reference to us were as follows —

I The Committee will be guided by the principles enumerated in paragraphs 212, 213 238, 239 and 240 and will also take into consideration the illustrative lists contained in appendix II of the Report

II With a view to giving the provinces the largest measure of independence, legislative, administrative and financial, of the Government of India, which is compatible with the due discharge by the latter of their own responsibilities, the Committee will advise as to—

(1) the functions which should be discharged by the provincial Governments (paragraph 238),

(2) the powers of control which should be retained by the Government of India in relation to the provincial subjects, in order to secure the discharge of their own responsibilities, and the grounds on which and the manner in which these powers should be exercised (paragraphs 213 and 240)

III The Committee will further advise as to—

(1) which of the functions to be discharged by provincial Governments can be transferred at the outset in each province to the charge of Ministers (paragraph 238),

(2) the powers which should be exercised by the Governor in Council in relation to transferred subjects and the grounds on which and the manner in which these powers should be exercised (paragraph 240)

3. Our Report falls into the following sections:—

Section I.—Introductory.

Section II.—Provincial Functions and Relations between the Provinces and the Government of India.

Part 1.—Provincial Functions.

Part 2.—Powers of control by the Government of India in relation to Provincial Subjects.

Part 3.—Lists of All-India and Provincial Subjects.

Section III.—Transfer of Functions to the charge of Ministers, and Powers of Governor in Council in relation to Transferred Subjects.

Part 1.—Transfer of Functions.

Part 2.—Powers of the Governor in Council in relation to Transferred Subjects.

Part 3.—List of Transferred Subjects.

Section IV.—Public Services.

Section V.—Finance.

Section VI.—Conclusion.

It should be noted that it has been found more convenient to treat the various questions arising under both the second and third clauses of the reference with regard to the Public Services and Finance in Sections specially devoted to those two subjects.

Section I.—Introductory.

4 Our first meeting was held at Simla on the 8th November, and after preliminary discussion, including informal interviews with two Members of the Government of India, there and at Delhi, we started on our tour through the country on the 16th We visited Patna, Lucknow, Lahore, Nagpur and Calcutta before Christmas, and examined the official and non official witnesses from Bihar and Orissa the United Provinces, the Punjab, the Central Provinces and Berar and Assam After Christmas we re assembled in Calcutta on January 2nd and heard the Bengal evidence From Calcutta we moved on to Madras, and thence to Bombay returning to Delhi on February 3rd Burma we did not visit, as it was excluded from the scope of our enquiries Besides hearing witnesses from the various provinces we were able to examine several officers who serve directly under the Government of India The final discussions were held after our return to Delhi, between the 3rd and the 26th February On the latter date our Report was signed

While on tour, we held sittings on 68 days in all and we sat as a rule between six and seven hours a day The sittings and the examination of witnesses were conducted privately The names of the witnesses and (in the case of representative witnesses) the names of the associations which they represented are set forth in Annexure no VII A record of their evidence together with a record of the material prepared for our assistance by the provincial Governments, has been deposited with the Home Department of the Government of India Reference is made in later paragraphs to the Memoranda received from the Government of India and the proposals formulated by local Governments

5 At the outset we suffered a great loss owing to the death of our colleague, the Hon'ble Mr H T W Gillman, C S I, I C S Member of the Executive Council of the Governor of Madras We realise that his wide administrative experience would have been of the greatest help to us The Madras officer (Mr M E Couchman) who was selected to take his place was unable to join us until we had completed our tour in Bihar and Orissa, the United Provinces and the Punjab

6 In examining the case of each province we received the help of two added members appointed by the respective local Governments with a view to the adequate representation of local conditions Except in the case of Bengal, where the gentlemen nominated by Government were both non officials, one added member in each province was an official and the other a non official We desire to take this opportunity of expressing our obligations to our added members (whose names are given in Annexure VI) for the great assistance they have given us Not only did they take a share in the examination of witnesses and in the deliberations on the peculiar circumstances of their own provinces, but in

several cases they also supplied us with valuable written statements of their views. We further received important assistance from Sir Prabhashankar Pattani, K.C.I.E., and Mr. G. Rainy, C.I.E., I.C.S., who were appointed to join our deliberations at Delhi when we were examining questions affecting the Government of India.

7. It is laid down in our reference that we are to be guided by the principles ennunciated in *certain paragraphs of the Joint* Report of Your Excellency and the Secretary of State on Indian Constitutional Reforms which have a special bearing upon the questions referred to us. The paragraphs in question are 212, 213, 238, 239 and 240. We have given careful consideration to these paragraphs, and frequent references to them will be found in our Report. There are many other passages of the Joint Report which directly affect the questions with which we have to deal, and our Report must be read with reference to, and in the light of, the Joint Report as a whole and the constitutional scheme of which it lays down the general lines.

8. Some preliminary definition of terms is required. We have used the word 'Imperial' in reference only to His Majesty's Government and the Parliament of the United Kingdom. We have used the term "Indian" for the purpose of references to the Government of India and the Indian legislature, as distinct from the provincial Governments and legislatures. It has been found convenient to state many of our proposals in what may perhaps be described as statutory form, but we wish it to be understood that we have done this for the sake only of clear statement, and not with a view to assuming the functions of the Parliamentary draftsman or to deciding questions as to the precise legal machinery to be employed for giving effect to our proposals.

Section II.—Provincial Functions and Relations between the Provinces and the Government of India.

Part 1.—Provincial Functions.

9. Our duty, as stated in clause II of the reference, is to advise as to the functions of the provincial Governments and as to the control to be retained by the Government of India in relation to provincial subjects 'in order to secure the discharge of their own responsibilities.' For the purpose of defining the relations between the central and provincial Governments, as we are thus required to do, we have found it essential to examine not only what subjects should be comprised in the list of provincial subjects, but also what are the subjects for which the responsibility must remain with the Government of India. It has thus become necessary to prepare two lists showing:—

(*i*) All-India subjects.

(*ii*) Provincial subjects.

These lists are attached to this Section of the Report

10 In the preparation of these lists we have been guided by paragraph 238 of the Joint Report (from which the following passage may be quoted —

> [illegible] siness will be to consider what are the services to be [illegible] all others remaining with the Government of India [illegible] that some matters are of wholly provincial concern and that others are primarily provincial, but that, in respect of them, some statutory restrictions upon the discretion of provincial Governments may be necessary Other matters again may be provincial in character so far as administration goes while there may be good reasons for keeping the right of legislation in respect of them in the hands of the Government of India '

11 In considering the questions arising in connection with the preparation of these lists, we have had the assistance of a Memorandum received from the Government of India on the general subject of Division of Functions, which forms an annexure to this Report (Annexure II) The following passages may be quoted from this Memorandum —

"7 There are certain subjects which are at present under the direct administration of the Government of India The Government of India maintain separate staffs for their administration and the provincial Governments have no share in it The category is easily recognisable and for the most part there will not be much room for doubt as to the subjects to be included in it At the other end of the line are matters of predominantly local interests which however much conditions may vary between provinces will generally speaking be recognised as proper subjects for provincialisation

"8 Between these extreme categories however lies a large indeterminate field which requires further examination before the principles determining its classification can be settled It comprises all the matters in which the Government of India at present retain ultimate control legislative and administrative but in practice share the actual administration in varying degrees with the provincial Governments In many cases the extent of delegation practised is already very wide The criterion which the Government of India apply to these is whether in any given case the provincial Governments are to be strictly the agents of the Government of India or are to have (subject to what is said below as to the reservation of powers of intervention) acknowledged authority of their own In applying this criterion the main determining factor will be not the degree of delegation already practised, which may depend on mere convenience but the consideration whether the interests of India as a whole (or at all events interests larger than those of one province) or on the other hand the interests of the province essentially preponderate

"The point is that delegation to an agent may be already extensive, but that circumstance should not obscure the fact of agency or lead to the agent being regarded as having inherent powers of his own "

The Memorandum proceeds to state that applying the principle above laid down " the Government of India hold that where extra-provincial interests predominate the subject should be treated as central," while " on the other hand, all subjects in which the interests of the provinces essentially predominate, should be provincial, and in respect of these the provincial Governments will have acknowledged authority of their own "

12. We recognise the distinction above drawn between the two classes of functions discharged by provincial Governments—(1) Agency functions in relation to All-India subjects and (2) Provincial functions properly so called. The distinguishing feature of the work done in discharge of agency functions is that it relates to subjects in which All-India interests so far predominate that full ultimate control must remain with the Government of India, and that, whatever the extent of the authority in such matters for the time being delegated by the Government of India to the provinces as their agents, it must always be open to the Government of India to vary the authority and, if need be, even to withdraw the authority altogether. Provincial functions relate to subjects in which, to use the words of the Government of India Memorandum, "the interests of the provinces essentially predominate," and in which provincial Governments are therefore to have "acknowledged authority of their own." We recognise the difficulty of stating the matter in more precise terms. Circumstances, and the experience gained in the working of the existing local Governments, have largely decided in practice what subjects must fall in the provincial class; but the general subordination of local Governments to the Government of India under the terms of the Government of India Act, and centralization in finance, have in the past tended to obscure the actual dividing line between All-India and provincial subjects, which also governs the separation in the provinces of agency from provincial functions.

13. In considering what subjects should be classed as provincial subjects, we have, in accordance with the suggestion of paragraph 238, used the first illustrative list to the Report as the starting point for our deliberations. This list has also been treated by most provincial Governments as affording the basis for their own proposals. The Government of India have not themselves put forward any definite proposal as to how the classification of subjects should be worked out on the lines laid down in their Memorandum, and the provincial proposals under this head were mainly confined to discussing the limits of the authority to be exercised in future by the Government of India, in relation to the subjects included in this first illustrative list, and did not in any case include an attempt to make a general and complete classification as between the central and provincial Governments. It has therefore been left to us to attempt this task, on the basis of the general proposals contained in the Report, and of the material at our disposal, consisting of the Memoranda from the Government of India, the schemes and Memoranda of the different provincial Governments and the evidence which we have received. We are fully conscious of the difficulties of mkaing such a complete classification of the functions of Government as these lists represent, and we put them forward with the reservations necessary in dealing with a subject so various and so complicated. Their purpose is to lay down the main lines of division. They will, no doubt, require and receive careful examination by the different Governments concerned as regards their bearing on the detailed work of administration.

14 Certain broad considerations governing the preparation of the lists of All-India and provincial subjects have to be stated —

(1) We have proceeded on the basis that there is to be no such statutory demarcation of powers between the central and provincial legislatures as to leave the validity of Acts passed to be challenged in the Courts, on the ground of their being in excess of the powers of the legislature by which they are passed We do not propose any alteration in the essential feature of the existing system of legislation in British India, which is that, save for certain special powers entrusted to the Indian legislature under section 65 of the Government of India Act the Indian legislature as regards British India, and each of the provincial legislatures as regards its own province, have in theory concurrent jurisdiction over the whole legislative field In fact the powers of provincial legislatures are much restricted owing to the rule depending in some cases on statute and in other cases on executive order, that provincial Bills require the previous sanction of the Governor General or the Government of India before introduction but the validity of a provincial Act duly passed and assented to cannot be challenged on the ground that previous sanction has not been given

(2) In accordance with the suggestion made in paragraph 238, many provincial subjects are stated in the provincial list to be "subject to Indian legislation" either in whole or in part The effect of this limitation is—with regard to Indian powers, that legislation on that subject in whole or in part and any powers reserved thereunder to the Governor General in Council are recognized as an All Indian subject—and with regard to provincial powers not that the province cannot legislate on the subjects at all but that in so far as the limitation operates it cannot legislate except with the previous sanction of the Governor General

(3) In framing the lists we have treated as All-India subjects and committed therefore to the Government of India and the Indian legislature, certain large general heads, such, for instance, as Commerce, and Laws regarding property, but have taken out of these, and allotted to the provinces, important sections, *e g* , in the case of the first, Excise, and, in the case of the second, Laws regarding land tenure As stated in the rules of interpretation applied to the lists, any matter included in the provincial lists is, to the extent of such inclusion to be deemed to be excluded from any All India subject of which otherwise it would form part Subjects not expressly included in either lists are regarded as All-India subjects (All-India list, no 40), but it is left open to the Governor General in Council to add to the provincial list "matters of merely local or private interests within the province" (Provincial List, no 47)

(4) Experience elsewhere has abundantly shown the difficulties involved in working out such a scheme of classification and making it complete, and has proved how impossible it is to forecast beforehand the actual results in practice of the division made. It must, however, be remembered that in this case we are not attempting a division of powers which will be subject to test in the Courts, and we can therefore with greater confidence leave the effect of the division proposed to be worked out in the course of legislative and administrative practice in the light of accepted general principles. Our scheme has been devised on such a basis as to leave the way open for this process of development.

15. We have included in the lists of All-India and provincial subjects notes of an explanatory character, but the proposals made as to the division of functions between the Government of India and the provincial Governments in certain subjects involve some points of such importance as to require special mention here.

(1) *Education.*—We have included Education in the provincial list "subject to Indian legislation controlling the establishment and regulating the constitutions and functions of new universities," and have provided that among the classes of provincial legislation which the Governor will be required to reserve for the consideration of the Governor-General shall be legislation regulating the constitution and functions of any university unless such legislation has been subject to previous sanction [*vide* paragraph 36 (3)]. The effect of these two proposals will be that (*a*) apart from powers conferred by future Indian legislation on the provinces, provincial legislation with regard to the establishment, constitution and functions of new universities will be subject to previous sanction, and (*b*) a provincial Legislative Council will be competent to legislate, subject to reservation, but without previous sanction, for the purpose of amending the constitution and functions of any university now existing within the province. In recommending that legislation by a province as to the establishment, constitution and functions of a new university shall be subject to previous sanction, and that the control of legislation as to new universities shall thus, in effect, be placed in the hands of the Indian legislature, we have been influenced by the views of the Calcutta University Commission, which have been communicated to us in advance of the publication of the Commission's report. It is not for us to advise as to the form of such legislation, but we made our recommendation on the assumption that means will be found of giving this legislation such an elastic character as to facilitate university development according to the varying needs and conditions of the different provinces.

The special circumstances of Bengal, and the fact that the Calcutta University Commission have been enquiring into and are about to report on higher education in Bengal, render it necessary to make separate provisions regarding that province. If it is decided to give effect to the

recommendations contained in the report of the Commission legislation will be required—

(i) as to the constitution and functions of the University of Calcutta,

(ii) as to the control of secondary education in Bengal, and the establishment of a Board of Intermediate and Secondary Education,

(iii) as to the establishment, constitution and functions of the new University of Dacca

The third point is already covered by the proposed provision for the control by the Indian legislature over the establishment and constitution of new universities, but, as regards the other two points, we recommend that legislation in Bengal with regard to the Calcutta University and with regard to the control and organisation of secondary education, shall be subject to previous sanction for a period of five years from the date when the reforms scheme comes into operation This will give time to the Indian legislature to pass, if it sees fit to do so, the legislation required to give effect to the Report of the Calcutta University Commission, and will secure such legislation against premature amendment

(2) *Railways* —As regards Railways we have been impressed with the evident strength of the desire in many provinces to develop light and feeder railways There is a general feeling that such development is unduly hampered under existing conditions This feeling is particularly strong in Madras, where several local authorities have been given proof of their keenness on the subject by levying for years a cess for railways the construction of which has not even been sanctioned We have tried therefore, while conserving the essential interests of the Railway Board as controller of the railway communications of India and guardian of the rights of existing railways, and the ultimate veto of the Government of India, to give to the provincial Legislative Councils a power of initiative in legislation which will give scope to local enterprise We recommend that local authorities or private corporations should be allowed to introduce Bills for the construction of light and feeder railways in the provincial Councils But we suggest that provision should be made by standing orders of each provinc[illegible] before any Bill providing for construction and [illegible] feeder railway is introduced in the Council, [illegible]oposals contained in such Bill shall be given to the Railway Board, and to such *others parties as may be prescribed, and that the Bill shall be referred* after introduction to a Select Committee of the Council with power to hear evidence, and shall be dealt with by procedure similar to that applied to private Bills under British Parliamentary practice, and we further propose that any such Bill shall, after being passed by the provincial Council, be reserved for the consideration of the Governor-General, in accordance with the proposals contained in paragraph 36

(3) *Ports and Waterways.*—The question of the control of ports and waterways presents certain special features. At present both are administered under the immediate control of the local Governments, but it is obvious that the development and control of ports is very closely connected with the regulation of shipping, which we have assigned as an All-India subject, and has certain aspects which are not only of Indian but also of Imperial importance. The larger inland waterways also are of interest to India as a whole, and may be injuriously affected in one province by action or neglect in another; they also have a most important bearing on the question of railway development. There has been much discussion on the subject, especially in Bengal, where a proposal for a Waterways Trust has been steadily advocated, and the Bengal Government have recommended that if such a Trust is constituted it should be directly under the control of the Government of India. No definite scheme for such central control has been laid before the Committee, but we consider it desirable to leave the way open for the adoption of such a scheme, and have therefore made provision in the All-India and provincial lists which will enable the Government of India to take over direct control of ports and inland waterways to such an extent as may hereafter be thought expedient.

(4) *Religious and Charitable Endowments.*—The question of Religious and Charitable Endowments has been under more or less constant discussion since the Act of 1863 was passed. In the circumstances of India, it seems impossible to deal separately with the two classes of endowments, and the increasing desire for the effective supervision of endowments has been checked by the fear of affecting religious rites and usages. Our proposals under the head of legislative control provide that all provincial legislation affecting the religion or religious rites or usages of any class of British subjects in British India shall be excluded from the class of Bills requiring previous sanction, but shall be reserved for the consideration of the Governor-General [*vide* paragraph 36 (3)], and the object of these proposals, and of including religious and charitable endowments in the list of provincial subjects, is to leave it open to the provincial legislatures to seek a solution of the difficulties that surround the question.

PART 2.—POWERS OF CONTROL BY THE GOVERNMENT OF INDIA IN RELATION TO PROVINCIAL SUBJECTS.

General principles.

16. Under this head arises a question which is inseparable from those which have to be considered in framing the lists of All-India and provincial subjects, namely, what is to be the effect as regards provincial powers of putting a subject in the provincial list? Or, in other words what is to be the extent of the "acknowledged authority" of the province in relation to provincial subjects? In the Memorandum already referred to (Annexure II) the Government of India have given an indication of

their views on this question The following passage may be quoted from paragraph 11 of the Memorandum —

> 'Among provincial subjects some will be transferred Taking the case of these first the Government of India think that the exercise of the central Government s power to intervene in provincial subjects should be specifically restricted to the following purposes —
>
> (i) to safeguard the administration of Government of India subjects,
>
> (ii) to secure uniformity of legislation where such legislation is considered desirable in the interests of India or of more than one province,
>
> (iii) to safeguard the public services to an extent which will be further determined subsequently,
>
> (iv) to decide questions which affect more than one province
>
> So far as legislation is concerned the Government of India think that the exercise of the legislative powers of the central Government should be by convention restricted in the manner proposed in paragraph 212 to the abovenamed grounds '

This proposal is qualified by the statement that it should be regarded as relating to control which is not based on financial considerations To the question of financial control we refer later

17 Our view as to the four purposes for which it is proposed to retain power to intervene in transferred subjects may be briefly stated As to the first, it is clearly necessary for the Government of India to retain power to safeguard the administration of its own subjects, which we have called "All-India subjects" It is also necessary for the Government of India to retain power to intervene to decide questions in dispute between provinces but we should prefer to see the fourth purpose expressed in terms less wide than those proposed and it should we think, be made clear that the provinces are to have an opportunity of settling for themselves any matter in dispute affecting a provincial subject before the Government of India exercise their power to intervene We suggest therefore that the fourth purpose should be stated as follows —

> "To decide questions arising between two or more provinces failing agreement between the provinces concerned"

With regard to the second purpose we feel that acceptance of the purpose of securing uniformity of legislation stated in these wide terms would make it difficult, if not impossible for any convention to come into existence limiting the interference of the Indian legislature in provincial subjects We have, therefore, in our list of provincial subjects and in our proposals with regard to the legislative powers of the provinces, endeavoured to provide specifically for cases where the need for uniformity of legislation must be recognized, and we have thus we believe, made the reservation of this general power unnecessary Where, under our proposals, power has been reserved to the Indian legislature to legislate, we have, as already stated, treated the power so reserved as an All India subject

With regard to the third purpose safeguarding the public services, our proposals on this subject are set out in the Section which deals with the public services To the extent to which control is to be reserved by the Government of India and the Indian legislature, the public services

will be an All-Indian subject. These proposals as to legislation and the public services enable us therefore to reduce the number of the purposes for which the Government of India and the Indian Legislature should retain power to intervene in transferred subjects to two, which may be stated as follows:—

(1) To safeguard the administration of All-Indian subjects.

(2) To decide questions arising between two or more provinces, failing agreement between the provinces concerned.

18. In the case of provincial subjects which are reserved, the Memorandum (Annexure II), after stating that the Government of India look forward in future to very different relations between the central and provincial Governments, even in reserved subjects, from those which have obtained in the past, proceeds as follows:—

> "Nevertheless, as they have already said, the Government of India accept the principle laid down in paragraph 213 that an official government which is not subject to popular control cannot properly be legally exempted from superior official control. Bearing in mind the further fundamental principle that, saving its responsibility to Parliament, the central Government must retain indisputable authority in essential matters, and also the practical danger that the specification of certain ground for the exercise of powers of control may be taken to imply the exclusion of others, they hold that it would be unwise to lay down any specific limitations upon their legal powers of interference with provincial Governments in reserved subjects. In respect of these therefore they propose no amendment of section 45 of the Government of India Act."

The paragraph then proceeds to give an indication of the Government of India's views as to the purposes for which their control in regard to reserved subjects will generally be exercised in future, but it is made clear that this expression of their views is not intended to serve as the basis of any formal limitation of their legal powers.

19. We think there is great weight in the considerations urged against the plan of making, in the case of reserved subjects, any such list of purposes of intervention by the Government of India as is proposed in the case of transferred subjects, and thus imposing a specific restriction on the Government of India's general powers of control. At the same time we feel that the effect of the important distinction between agency and provincial functions should receive formal recognition; otherwise the absolute powers of control reserved to the Government of India under sections 33 and 45 of the Government of India Act will apply equally to both sets of functions, except in so far as provincial subjects are transferred, and, apart from transfer, there will be no formal distinction between the delegation of authority to the province as an agent in relation to All-India subjects and the process of devolution whereby it is intended that the province should obtain an acknowledged authority of its own as regards provincial subjects. Failure to recognize this distinction, except in the case of transferred subjects, is bound to be a source of difficulty and confusion in the relations between central and provincial Governments, and between the provincial Governments and their own legislatures, and appears to us to be inconsistent with the policy laid down in the Joint Report.

20 In this connection we would refer to the opening words of clause II of our reference, which enjoin us to keep in view the object of giving to the provinces "the largest measure of independence, legislative, administrative and financial, of the Government of India, which is compatible with the due discharge by the latter of their own responsibilities," and also to the second formula contained in paragraph 189 of the Joint Report, from which these words are taken This formula runs as follows —

> "The provinces are the domain in which the earlier steps towards the progressive realization of responsible government should be taken Some measure of responsibility should be given at once, and our aim is to give complete responsibility as soon as conditions permit This involves at once giving the provinces the largest measure of independence legislative, administrative and financial, of the Government of India which is compatible with the due discharge by the latter of its responsibilities"

It will be observed that this formula links together the two questions of provincial independence of the Government of India and growth of responsible government in the province Subsequent paragraphs of the Joint Report make it clear that, though the Governor in Council remains primarily responsible for provincial reserved subjects, the provincial Legislative Councils are, from the outset, to be directly concerned in these subjects They are to legislate with regard to them, they are to discuss and deal with the budget which contains provision for them and they are to have Standing Committee which will bring some of their members into immediate touch with their administration Though special procedure is to be provided by which to secure legislation and to obtain funds for reserved subjects, where the proposals of the Governor in Council do not meet with the approval of the Legislative Council, it may be assumed that a Governor in Council will not resort to this special procedure if he can reasonably avoid it

21 It appears to be clear therefore that the sphere of influence of the new provincial Councils will extend beyond the actual area of the transferred subjects The initiative with regard to the reserved subjects will rest with the Governor in Council, but, in shaping his course with regard to such subjects, the Governor in Council will be bound to take into account the important factor of his relations with his Legislative Council, and, it may be added, with the Ministers who form the non-official side of his Government If the Governor in Council is thus put in a new situation with regard to provincial subjects which remain reserved, this new situation must be recognized in the relations between the Governor in Council and the authorities which control him, represented by the Government of India We do not read paragraph 213 of the Joint Report, which is referred to in the Government of India Memorandum, and is one of the paragraphs quote[illegible]
that we are to leave this new situation out [illegible]
control which the Government of India are [illegible]
subjects

22 A new principle has therefore in our opinion to be applied to all the subjects included in the sphere of provincial administration as provincial subjects, in view of the new conditions which the development

of popular institutions in the provinces will create, and we think that this principle can best be laid down by reference to the terms of the announcement of August 20th, 1917, the essential portion of which will, it may be assumed, be incorporated in the preamble to the new Bill. The preamble will, in that case, contain a statement to the effect that "with a view to the progressive realization of responsible government in British India as an integral part of the Empire, it is expedient gradually to develop self-governing institutions in that country." On the assumption that the preamble will be so framed, we propose that the new position as regards the relations of the Government of India with provincial Governments, in so far as concerns the administration of provinical subjects, should be formally recognized by an authoritative declaration to the following effect:—

> "The powers of superintendence, direction and control over local Governments vested in the Governor-General in Council under the Government of India Act, 1915, shall, in relation to provincial subjects, be exercised with due regard to the purpose of the new Act, as stated in the preamble."

The position with regard to the whole class of provincial subjects having been thus dealt with, the special position of transferred subjects should be defined, in accordance with the suggestion of the Government of India, by a clause to the following effect, which will operate as an amendment of the Government of India Act:—

> "The powers of superintendence, direction and control over local Governments vested in the Governor-General in Council under the Government of India Act, 1915, shall, in relation to transferred subjects, be exercised only for such purposes as may be specified in rules made under this Act, but the Governor-General in Council shall be the sole judge as to whether the purpose of the exercise of such power in any particular case comes within the purposes so specified."

The last words are added in order to make it clear that we do not contemplate such a limitation of the powers of the Governor-General in Council as would render the exercise of these powers open to challenge in the Courts. Our acceptance of the proposal with regard to the specification in rules of the purposes to which the exercise of the powers of the Governor-General in Council will be restricted in relation to transferred subjects is based on the assumption that the making of rules under this provision will be subject to effective Parliamentary control.

23. The general effect of these arrangements will be to apply one principle to all subjects marked as provincial; but the division of provincial subjects into the two classes, reserved and transferred, and the different authorities constituted for dealing with those two classes of subjects, will mark the fact that the principle is to have a far wider application in the one case than in the other, and this point will be further emphasized by the limitation of the purposes for which the Government of India may interfere in the one case and the absence of any such limita-

tion in the other While the proposed declaration will give a guiding principle in relation to the control by the Government of India over provincial subjects, whether reserved or transferred it cannot be interpreted as laying down any hard and fast rule The Government of India will not be bound to accept proposals of an official provincial Government merely because they are backed by a majority in the provincial Legislative Council They will still be responsible to the Secretary of State and to the Imperial Parliament for exercising their full legal authority, where they think necessary, to reject such proposals however strongly supported, but the effect of the declaration will be to involve definite recognition of the relation between the Governor in Council and his provincial Council as one of the factors in the situation which must be taken into account The proposed declaration will necessarily apply equally to the exercise of the powers of control vested in the Secretary of State (under section 2 of the Government of India Act) in so far as local Governments are concerned, and the Secretary of State will be responsible to the Imperial Parliament for effect being given to the policy laid down

24 The distinction between a reserved and a transferred subject in respect of the control to be exercised by the Government of India has an important bearing on the question of the actual definition of provincial subjects as appearing in the provincial list As long as the Government of India continue to exercise in relation to a provincial subject the general control vested in them under the Government of India Act, without any restriction of the purposes for which that control may be exercised the limitation of the provincial subject by precise definition is not a matter of great practical importance, but as soon as the control of the Government of India becomes a restricted control which can only be exercised for certain specific purposes the question of definition acquires a new importance and needs very careful examination The position can be illustrated by reference to such subjects as Land Revenue and Police In the case of Land Revenue the Memorandum received from the Revenue and Agriculture Department proposes that the control of the Government of India shall in future be limited to requiring that the rules made by a local Government for the guidance of Settlement Officers in assessing revenue must be " in accordance with general principles sanctioned by the Governor General in Council " If Land Revenue is recognized as a purely provincial concern then it is difficult to justify or give practical effect to such a control by the Government of India as this provision would imply On the other hand it may be said that Land Revenue never can be recognized as a purely provincial concern because the Government of India must always be vitally interested in the safeguarding of the great sources of national revenue of which Land Revenue is one though under the proposed financial arrangement it is a source from which the province alone will draw In the case of Land Revenue as it is not now recommended for transfer and the Government of India's general control therefore remains we have not attempted to define the exact form which that control should in future take

The subject of Police affords another illustration of the importance of this question of definition It is obvious that the interests of the

Government of India and of other provinces may be seriously affected if a particular province fails to maintain its police force at a sufficient strength and in a reasonable state of efficiency. If therefore the question arose as to the transfer in any province of the police to the charge of Ministers, the question of the definition of the powers of the central Government and of the obligation of the province in relation to Police would assume quite a different aspect from that which it presents as long as the general control of the Government of India is retained unhampered by any restriction to special purposes.

We have sought by these illustrations to make it clear that, where a provincial subject is not now to be transferred in any province, its definition as a provincial subject, which involves the question of the control to be retained in respect of it by the central Government, is not to be regarded as having received final consideration. The question of such definition must be reviewed and decided when the question of transfer arises, and our proposed definitions of those provincial subjects which are to remain reserved must therefore not be regarded as prejudging the question as to the limitation necessary for the purpose of protecting the interests of the central Government when the date of transfer comes.

25. We received from the Government of India on the 21st February, when our enquiry was approaching its conclusion, a further short Memorandum on the question of Division of Functions between the central Government and the provinces. This Memorandum forms annexure III to our Report. It will be seen that the final paragraph of this Memorandum has a bearing on the proposals contained in paragraphs 20—23. We note a suggestion contained in this Memorandum that the subjects which appear in the provincial budget should be described as the subject which the provinces administer. We are not quite clear as to the effect of this proposal, but it may be read as a suggestion that the distinction to be drawn between agency functions and provincial functions should be made clear by relieving the provincial exchequer of expenditure on agency functions, and making such expenditure a direct charge against the Government of India. We think that this would be a logical way of dealing with the position, and that there would be obvious advantages in its adoption, provided financial adjustments can be made which would prevent inequitable results.

Administrative Control.

26. The existing control by the Government of India over provincial administration finds expression in the provisions of a considerable number of statutes and regulations which specially reserve power to the Governor-General in Council, or require his previous sanction or subsequent approval to action taken by the provincial Governments. We have received from the provincial Governments a number of detailed proposals for the relaxation of this control in particular matters, either by the delegation of powers or by the amendment of the Act concerned; and the Government of India have also supplied us with departmental Memoranda treating the question on similar lines. We are not in a position

to deal with these detailed suggestions, but we recommend that the matter should be carefully examined now in the light of the material collected and of the new relations to be established between the central and provincial Governments In the Memorandum dated the 19th February (Annexure III) the Government of India refer to the matter as follows "In respect of these same subjects (i e , subjects that the provinces administer but which are not transferred subjects) the Government of India will undertake a formal and systematic scheme of devolution of their authority, such scheme to be compatible with the exercise of their control in matters which they regard as essential to good government " If, in the necessary interval before the reforms scheme takes effect, the existing statues are revised so as to eliminate provisions necessitating references to the Government of India which are considered no longer necessary, the position will be simplified and the provinces will have from the start a freer hand in dealing with provincial subjects

27 As regards the method by which the Government of India should exercise their right of intervention when necessary in matters of administration we propose in paragraph 63 to give effect to the suggestion contained in the Government of India Memorandum (Annexure II) by providing that the duty shall be laid upon the Governor to take care that any order given by the Governor-General in Council is complied with by the department concerned, whether such department is reserved or transferred "

Control over provincial legislation

28 Reference has already been made to the position as to provincial legislation under the existing law but it is now necessary to deal with the matter more fully Section 79 of the Government of India Act provides as follows —

79 (1) The local legislature of any province has power, subject to the provisions of this Act to make laws for the peace and good government of the territories for the time being constituting that province

(2) The local legislature of any province may with the previous sanction of the Governor General, but not otherwise repeal or alter as to that province any law made either before or after the commencement of this Act by any authority in British India other than that local legislature

(3) The local legislature of any province may not, without the previous sanction of the Governor General, make or take into consideration any law—

(a) affecting the public debt of India, or the customs duties, or any other tax or duty for the time being in force and imposed by the authority of the Governor General in Council for the general purposes of the Government of India, or

(b) regulating any of the current coin, or the issue of any bills, notes or other paper currency, or

(c) regulating the conveyance of letters by the post office or messages by the electric telegraph, or

(d) altering in any way the Indian Penal Code, or

(e) affecting the religion or religious rites and usages of any class of British subjects in India, or

(f) affecting the discipline or maintenance of any part of His Majesty's naval or military forces, or

(g) regulating patents or copyright, or

(h) affecting the relations of the Government with foreign princes or states

(4) The local legislature of any province has not power to make any law affecting any Act of Parliament.

(5) Provided that an Act or a provision of an Act made by a local legislature, and subsequently assented to by the Governor-General in pursuance of this Act, shall not be deemed invalid by reason only of its requiring the previous sanction of the Governor-General under this Act.

29. It will be observed that under this section the previous sanction of the Governor-General has to be obtained.

(1) to any provincial Bill repealing or altering a law made by any authority in British India other than the local legislature of the province concerned;

(2) to any provincial Bill bearing on certain All-India subjects specified in sub-clause (3); and

(3) to any provincial Bill affecting the religion or religious rites and usages of any class of British subjects in India [sub-clause (3) (*e*)].

These statutory provisions as to previous sanction have been supplemented by executive orders which have the effect of requiring provincial Governments to submit their Bills for previous sanction in all but a very limited class of cases. In practice the requirement of previous sanction has been applied so as to render necessary not only the submission to the Government of India of the Bill itself prior to introduction, but also the submission of any important amendments proposed during the passage of the Bill. Reference may be made to paragraphs 114-116 of the Joint Report, which explain the effect of the existing restrictions, and recognise the need of an effective measure of devolution before provincial Councils can acquire "any genuine independence in legislation."

30. It is clear that the requirement of previous sanction is calculated greatly to hamper and delay the work of provincial legislatures. This particular form of limitation has moreover as a rule the unfortunate effect of inviting the judgment of the Government of India upon a provincial Bill before they have had the guidance which could be obtained from a public discussion of its terms. On the other hand, as the provinces have in theory the right to range over the whole legislative field, it is essential that they should be under such effective restraint in the exercise of this right as will suffice to keep them off certain portions of the field together, and to place their entry into other portions under very strict control. The problem which we have to solve is to mark off for the provinces a reasonably wide legislative field, which they can be free to enter without first passing the barrier of previous sanction, and at the same time to provide such safeguards as may be necessary to enable the Government of India to exercise their supervision, for the purpose of protecting the wider interests committed to their charge, without being compelled to have recourse to a frequent exercise of the veto.

31. It is contemplated in paragraph 212 of the Joint Report that, subject to certain important reservations "within the field which may be marked off for provincial legislative control the sole legislative power shall rest with the provincial legislature." The

question of the means by which the control of this legislative field is to be reserved to the provincial legislature is discussed in the paragraph referred to As has already been indicated we are in agreement with the conclusion to which that paragraph points, that it is better to rely on limitations imposed by convention or constitutional practice rather than on a statutory demarcation so framed as to bar the entry of the Indian legislature into the provincial field But the growth of such a convention will depend on the degree of success attained in marking out the boundaries of the provincial field of legislation In this connection there are two points in paragraph 238 of the Joint Report which it is necessary to bear in mind

(1) That paragraph does not contemplate that the legislative field of the provinces will be co extensive with provincial subjects, but suggests that there will be some provincial subjects in respect of which legislation will remain in the hands of the Government of India

(2) It is further pointed out in paragraph 238 that, in dealing with each subject included in the provincial list the powers of provincial legislatures to alter the Acts of the Indian legislature on that subject will have to be carefully considered

32 The easiest way of explaining our proposals as to previous sanction will be by stating them in relation to the existing provisions of section 79 It may be that for the purpose of drafting the new Bills, it will be found better, as suggested in paragraph 114 of the report entirely to recast the existing provisions of section 79, but this is a question of drafting which we do not attempt to decide Taking section 79 as our basis, we propose that it should be amended as follows —

Omit from section 79 (2) the words " with the previous sanction of the Governor General but not otherwise, and substitute " subject to the provisions of the succeeding sub section "

Omit from section 79 (3) sub clause (*e*) and add the following subclauses —

" (1) regulating any other All India subject,

(2) affecting any power expressly reserved to the Governor General in Council by any existing law

(3) altering or repealing the provisions of any of the Acts passed by the Indian Legislative Council included in the schedule,

(4) regulating a provincial subject which has been declared to be " subject to Indian legislation,"

(5) altering or repealing any provisions of a law passed by the Indian legislature after the commencement of this Act (*i e*, the new Bill) which by the terms of such law may not be repealed or altered by a local legislature without previous sanction

We append a copy of the section showing these amendments —

79 (1) The local legislature of any province has power, subject to the provisions of this Act, to make laws for the peace and good government of the territories for the time being constituting that province

(2) The local legislature of any province may, [with the previous sanction of the Governor-General, but not otherwise,] *subject to the provisions of the succeeding sub-section* repeal or alter as to that province any law made either before or after the commencement of this Act by any authority in British India other than that local legislature.

(3) The local legislature of any province may not, without the previous sanction of the Governor-General, make or take into consideration any law—

(*a*) affecting the public debt of India, or the customs duties, or any other tax or duty for the time being in force and imposed by the authority of the Governor-General in Council for the general purposes of the Government of India; or

(*b*) regulating any of the current coin; or the issue of any bills, notes or other paper currency; or

(*c*) regulating the conveyance of letters by the post office or messages by the electric telegraph; or

(*d*) altering in any way the Indian Penal Code; or

[(*e*) affecting the religion or religious rites and usages of any class of British subjects in India; or]

(*e*) [(*f*) affecting the discipline or maintenance of any part of His Majesty's naval or military forces; or

(*f*) [(*g*) regulating patents or copyright; or

(*g*) [(*h*) affecting the relations of the Government with foreign princes or states; or

(*h*) *regulating any other All-India subject; or*

(*i*) *affecting any power expressly reserved to the Governor-General in Council by any existing law; or*

(*j*) *altering or repealing the provisions of any of the Acts passed by the Indian Legislative Council included in the schedule; or*

(*k*) *regulating a provincial subject which has been declared to be subject to Indian legislation; or*

(*l*) *altering or repealing any provision of a law passed by the Indian legislature after the commencement of this Act* (i.e., *the new Bill*) *which by the terms of such law may not be repealed or altered by a local legislature without previous sanction.*

The following is the Schedule referred to:—

Schedule.

Indian Penal Code.
Indian Evidence Act.
Bankers' Book Evidence Act.
Indian Contract Act.
Specific Relief Act.
Negotiable Instruments Act.
Indian Trust Act.
Transfer of Property Act.
Civil Porcedure Code.
Indian Limitation Act.
Criminal Procedure Code.
Indian Companies Act.
The Provident Insurance Societies Act.
The Indian Life Assurance Companies Act.
The Indian Official Secrets Act.
General Clauses Act.
Indian Short Titles Act.
Common Carriers Act.
Provident Funds Act.
Indian Ports Act.
Indian Lunacy Act.

33 The general effect of these proposals will be to leave the provinces free to legislate without previous sanction on provincial subjects, whether reserved or transferred, which are not specially made subject to Indian legislation Previous sanction will, however, still be required, even as regards such subjects, where the proposed Bill affects powers expressly reserved by statute to the Governor-General in Council, or amends any provision of certain All-India Acts, such as the Indian Codes, included in the schedule, or amends any clause of an Act passed by the Indian legislature after the new scheme has come into operation which, by the terms of the Act itself, is specially protected It will be found on examination of the provincial list that under these proposals there are a number of important provincial subjects on which the provinces will be free to legislate without previous sanction, while in other cases, where the freedom is not complete, the limitations proposed affect a small portion of the subject only The freedom of the province to legislate on these subjects without previous sanction will, it is contemplated, give rise to a corresponding constitutional practice under which the Indian legislature will refrain from legislation on these subjects

34 The proposal that a provincial Bill, affecting any power expressly reserved by existing statutes to the Governor-General in Council, should require previous sanction will be recognized as reasonable, but it should be noted here that the number of cases in which such power is reserved with regard to provincial subjects will be greatly reduced when legislative effect has been given to the proposals contained in the departmental memoranda which we have received from the Government of India

35 It will be observed that among the changes which it is proposed to introduce into section 79 is the omission from sub-section (3) of clause (*c*), which has hitherto required previous sanction for any provincial Bill " affecting the religion or religious rites and usages of any class of British subjects in India " This clause is wide in its terms, and the requirement of previous sanction in respect of Bills falling under this clause has seriously hampered initiative The proposed exclusion of Bills falling under this head from the class of Bills which require previous sanction raises the question whether the general relaxation proposed of the provisions as to previous sanction does not necessitate the creation of some other machinery whereby, in the case of certain classes of Bills, it will be possible to secure, at a later stage, an opportunity for consultation between the provincial Government and the Government of India, before such finality has been reached as to leave no course open to the Governor-General between assent and veto It is suggestted in the Joint Report (para. 254) that it should be open to the Governor-General in future to reserve provincial Bills for the signification of His Majesty's pleasure thereon, in the same way as he is now able to reserve Indian Bills under section 68 of the Government of India Act The adoption of this plan will not, however, meet the point which we now have in view The plan which we propose embodies another suggestion contained in the same paragraph, that the Governor should have a discretionary power to return a Bill to his Legislative Council for re-consideration of the provisions which it contains, and links with the adoption of this suggestion a provision enabling the Governor in certain cases to reserve a

Bill for the consideration of the Governor-General, instead of himself either assenting or withholding assent.

36. The following are our proposals with regard to the reservation of provincial Bills by the Governor for the consideration of the Governor-General:—

Proposed provisions as to reservation of provincial Bills:—

(1) In the case of any Bill passed by the provincial Legislative Council and presented to the Governor for his assent, the Governor may, according to his discretion, but subject to the provisions of the next succeeding paragraphs as to reservation of Bills, either

(*a*) assent, or

(*b*) withhold assent, or

(*c*) return the Bill with a recommendation for its amendment.

(2) In the case of any Bill, not previously sanctioned by the Governor-General, presented for the Governor's assent which either

(*a*) appears to the Governor to affect any matter specially committed to his charge under his Instructions, or

(*b*) though primarily relating to provincial subjects, appears to him incidentally to affect any All-India subject, or

(*c*) appears to him to affect the interests of any other province, the Governor may reserve the Bill for the consideration of the Governor-General.

(3) In the case of any Bill not previously sanctioned by the Governor-General presented for the Governor's assent which either

(*a*) appears to him to affect the religion or religious rites or usages of any class of British subjects in British India, or

(*b*) contains provisions regulating the constitution or functions of any university, or

(*c*) contains provisions which have the effect of including within a transferred subject matters belonging to reserved subjects, or

(*d*) provides for the construction or management of a light or feeder railway or tramway, other than a tramway within a municipal area,

the Governor shall, unless he is otherwise directed by the Governor-General, reserve the Bill for the consideration of the Governor-General.

(4) The following provisions shall apply to any Bill reserved for the consideration of the Governor-General under the preceding paragraphs:—

(*i*) The Governor may, at any time within six months of the date of the reservation of the Bill, with the consent of the Governor-General but not otherwise, return the Bill for further consideration by the Council with a recommendation that the Council shall consider amendments

thereto, and such Bill, when so returned, together with any recommendations relating thereto, shall be dealt with by the Council either in Council or in Grand Committee, according to the procedure applied to the Bill in the first instance provided that if the Bill is of such a nature as to be subject to his certifying power, the Governor may certify the Bill with any amendment recommended at this stage, though the Bill had previously not been certified

(ii) After any Bill so returned has been further considered by the Council, either in Council or in Grand Committee, together with any recommendations made by the Governor relating thereto the Bill, if re affirmed in accordance with the appropriate procedure, with or without amendment, may be again presented to the Governor

(iii) The Governor shall not be bound to reserve a second time any Bill falling under the provisions of clause (3) but may again reserve such Bill if he thinks fit

(iv) Any Bill reserved for the consideration of the Governor General shall if assented to by the Governor General within a period of six months from the date of such reservation, become law on due publication of such assent but if not assented to by the Governor General within such period of six months shall lapse and be of no effect unless before the expiration of that period either

(*a*) the Bill has been returned by the Governor for further consideration by the Council, or

(*b*) in the case of the Council not being in session a notification of the Governor's intention so to return the Bill at the commencement of the next session has been published in the gazette

37 It will be observed that the above proposals divide the Bills to which the procedure of reservation is to apply into two classes and that, while in the case of the first class the adoption of this procedure is left to the Governor's discretion, in the case of the second it is made compulsory The first class, where the Governor has discretion as to whether he will reserve or not includes Bills which appear to the Governor to affect any matter specially committed to his charge under his instructions or to affect any All India subject, or to affect the interests of any other province The second class, as to which the reservation procedure is proposed to [illegible] which appear to the Governor to affect [illegible] usages of any class of British subjects [illegible] hich shift the boundaries between transferred and reserved subjects and railway or tramway Bills

38 These two sets of proposals as to previous sanction and reservation should be taken together Their adoption will greatly reduce the legislative sphere to which previous sanction applies, and will thus give the provinces much greater freedom in legislation, whilst it will also provide an opportunity for an *interim* examination by the Government

of India, and a reasonably effective means of securing the removal of defects in the case of legislative measures affecting the Government of India or interests which it is their special duty to protect, instead of leaving open to the Governor-General no course between assent and veto.

39. Under these proposals as to previous sanction and reservation, provincial Bills will fall into four classes:—

(*i*) Bills requiring previous sanction,

(*ii*) Bills in respect of which reservation is compulsory,

(*iii*) Bills in respect of which reservation is optional, and

(*iv*) Bills which are subject neither to reservation nor to previous sanction.

The important distinction, however, is the distinction between the first class and the other three classes. If provincial legislation on a subject requires previous sanction, it follows that there is to be no constitutional *or conventional* barrier against the intervention of the Indian legislature in that subject. On the other hand, where the province has freedom to legislate without previous sanction, it is working in its own legislative sphere, an constitutional practice will normally forbid the Indian legislature from invading that sphere.

40. There remains, however, a special case for consideration, namely, legislation affecting a certain class of provincial subject as to which it seems expedient, while giving freedom to provincial legislatures, also to preserve the full authority of the Indian legislature. The subjects falling into this class are subjects in which the backwardness or laxity of one province is specially liable seriously to endanger the interests of other provinces. They all have to do with health, either that of human beings, or that of animals or plants. The measures which we have in view may be classified under four heads:—

(*i*) Prevention of infectious or contagious disease (forming part of the general subject of public health),

(*ii*) Prevention of diseases among animals,

(*iii*) Prevention of plant diseases, and

(*iv*) Measures to be taken against destructive insects and pests.

In regard to these matters, we recommend that it should be definitely recognized that it is open to the Indian legislature to legislate, notwithstanding that they fall within the limits of provincial subjects which are not classified as subject to Indian legislation. The provinces will, however, retain their own freedom to legislate on these subjects without previous sanction, except that, where the Indian legislature passes a law of general application dealing with these subjects, it will be open to that legislature to prescribe that a provincial legislature shall not be competent to amend such a law without obtaining previous sanction.*

41. In making the above recommendation we do not leave out of consideration one of the alternatives mentioned in paragraph 212, namely,

* Reference may be made to existing All-India Act relating to matters dealt with in this paragraph, *viz.*, Epidemic Diseases Act, Destructive Insects and Pests Act, Glanders and Farcy Act, Live-stock Importation Act and Dourine Act.

that the Indian legislature should pass legislation which might be adopted either *simpliciter* or with modifications by any province which may wish to make use of it We agree that this form of legislation should be recognized as within the scope of the Indian legislature as regards any provincial subject and that such legislation should not be regarded as involving any invasion of the provincial field But, as the adoption of such model legislation passed by the Indian legislature is to be left entirely to the discretion of the province, the acceptance of this plan does not adequately provide for such conditions as are referred to in the preceding paragraph

Part 3 —Lists of All India and Provincial Subjects

These lists are to be read subject to the following Rules of interpretation —

I The effect of a provision in the list of provincial subjects that any matter shall be ' subject to Indian legislation is that legislation regulating that matter and powers received by such legislation to the Governor General in Council are made an All India subject, and that the provincial legislature is precluded from legislating thereon without previous sanction The use of the phrase ' subject to Indian legislation is not, however intended to exclude the alternative of a matter being dealt with by imperial legislation *i e* by an Act of the Parliament of the United Kingdom or by rules made under such an Act

II Any matter included in the Provincial List is to the extent of such inclusion to be deemed to be excluded from any All India subject of which but for such inclusion it would form part

ALL INDIA SUBJECTS

Subjects	Remarks
1 His Majesty s Naval Military and Air Forces in India including Royal Indian Marine and volunteers but excluding military police maintained by provincial Governments	
Naval and military works and cantonments	
2 External relations including naturalisation and aliens	
3 Relations with Native States	
4 Any territory in British India other than a province mentioned in the schedule	The schedule will include the eight provinces to which the reform scheme applies
5 Excluded areas	These are the backward areas referred to in paragraph 199 of the Joint Report which it is suggested should be administered by the Governor under the control of the Government of India

Subjects.	Remarks.
6. Communications—to the extent described under the following heads:—	
(*a*) Railways and tramways, except tramways within municipal areas, and except in so far as provision may be made for construction and management of light and feeder railways and tramways, other than tramways within municipal areas, by provincial legislation enacted in accordance with procedure to be prescribed by standing orders of the provincial Legislative Council:	These standing orders of the provincial Legislative Council should require that, before any Bill providing for construction and management of a light or feeder railway is introduced in the Council, sufficient notice of the proposals contained in such Bill shall be given to the Railway Board and to such other parties as may be prescribed, and that the Bill shall be dealt with by procedure similar to that applied to private Bills under British Parliamentary practice, and further that any such Bill shall, after being passed by the provincial Council, be reserved for the consideration of the Governor-General.
(*b*) Roads, bridges or ferries declared by the Governor-General in Council to be of military importance:	
(*c*) Aircraft:	
(*d*) Inland waterways, to an extent to be declared by or under Indian legislation.	The position regarding inland waterways is indicated in paragraph 15.
7. Shipping and Navigation (including shipping and navigation on inland waterways in so far as declared to be under Indian control in accordance with 6 (*d*).)	It is suggested that wide powers should be delegated to local Governments to enable them to regulate local shipping traffic, *e.g.*, coasting vessels plying between ports in the same province, especially as regards accommodation provided for passengers.
8. Light-houses, beacons and buoys.	
9. Port quarantine and marine hospitals.	
10. Ports declared to be major ports by or under Indian legislation.	
11. Posts, telegraphs and telephones.	
12. Sources of imperial revenue, including customs, cotton excise duties, income-tax, salt, stamps (non-judicial).	
13. Currency and coinage.	
14. Public debt of India.	
15. Savings banks.	

Subjects	Remarks
16 Department of the Comptroller and Auditor-General	The proposals regarding audit and accounts are indicated in paragraph 73
17 Civil Law, including laws regarding status, property, civil rights and liabilities and civil procedure	
18 Commerce, including banking and insurance	
19 Trading companies and other associations	
20 Control of production, supply and distribution of any articles in respect of which control by a central authority is declared by or under Indian legislation essential in the public interests, and control of cultivation and manufacture of opium and sale of opium for export	
21 Control of petroleum and explosives	The law regarding petroleum and explosives is at present under the direct control of the Government of India and uniformity of law and administration is desirable
22 Geological survey	
23 Control of mineral development, in so far as such control is reserved to the Governor General in Council under rules made or sanctioned by the Secretary of State and regulation of mines	The rules regulating the grant of licenses to prospect for minerals and the grant of leases of mines and minerals are made by the Governor General in Council and sanctioned by the Secretary of State in Council Mining administration is now controlled by the Government of India and there is a small expert department of Inspectors working freely all over India It would be impossible without great extravagance and loss of efficiency for each province to have its own expert staff
24 Inventions and designs	
25 Copyright	
26 Emigration and immigration and inter provincial migration	It is considered desirable to make inter-provincial migration an All-India subject to be administered by the provincial Governments as agents
27 Criminal Law, including criminal procedure	
28 Central police organization and railway police	

Subjects.	Remarks.
29. Control of possession and use of arms.	
30. Central institutions of scientific and industrial research, including observatories and central institutions for professional or technical training.	
31. Ecclesiastical administration.	The expenditure is incurred entirely by the Government of India. The Bishops and clergy are under the administrative control of the local Governments, except that the Bishop of Calcutta as Metropolitan is under the control of the Government of India. As a large portion of the expenditure is on behalf of the army, the subject must be an All-India one.
32. Survey of India.	
33. Archæology.	The expenses of the Archæological officers and establishments (except in Madras) are borne by the Government of India, while the cost of excavation, exploration and maintenance is provincial, though the Government of India assist by grants-in-aid. The Director-General of Archæology and his officers are under the control of the Government of India, while the local officers (Superintendents and Assistant Superintendents), whose work in some cases extends over more than one province, are under the executive orders of the local Government in whose jurisdiction their headquarters lie. The Government of India suggest that Archæology should be classed as an All-India subject.
34. Zoological survey.	
35. Meteorology.	
36. Census and Statistics.	It will be necessary to provide that the Governor-General in Council shall have full power to obtain returns and information from local Governments on any subject in such form as he may prescribe.
37. All-India Services.	*Vide* Section IV.
38. Legislation in regard to any provincial subject, in so far as such subject is stated in the Provincial List to be subject to Indian legislation, and any powers relating to such subject reserved by legislation to the Governor-General in Council.	

Subjects	Remarks
39 All matters expressly excepted from inclusion in the Provincial List	
40 All other matters not included in the list of provincial subjects	

PROVINCIAL SUBJECTS

Subjects	Remarks
1 Local self government that is to say matters relating to the constitution and powers of municipal corporations, improvement trusts district boards, mining boards of health and other local authorities established in the province for purposes of local self government, exclusive of matters arising under the Cantonments Act and subject to Indian legislation (*a*) as regards powers of such authorities to borrow otherwise than from a provincial Government, and (*b*) as regards the levying by such authorities of taxation not included in the schedule of municipal and local taxation (v paragraph 82)	
2 Medical administration, including hospitals dispensaries and asylums and provision for medical education	Legislation regarding the status and civil rights and liabilities of lunatics is an All-India subject and the Lunacy Act is included among the Indian Acts which can not be amended without previous sanction The question of medical registration falls under head 42
3 Public health and sanitation and vital statistics	The committee consider that the Indian legislature should have concurrent power to legislate regarding protection against infectious and contagious diseases (v paragraph 40)
4 Education (excluding—	v paragraphs 15 and 45
(1) the Benares Hindu University,	The Benares Hindu University is not a provincial but an All India university
(2) Chiefs' Colleges),	Chiefs' Colleges concern Native States
subject to Indian legislation—	
(*a*) controlling the establishment and regulating the constitutions and functions of new universities, and	
(*b*) defining the jurisdiction of any university outside its own province,	

Subjects.	Remarks.
and, in the case of Bengal, for a period of five years from the date when the reforms scheme comes into operation, subjects to Indian legislation with regard to the Calcutta University and the control and organisation of secondary education.	
5. Public Works included under the following heads:—	
(*a*) Provincial buildings:	
(*b*) Roads, bridges and ferries, other than such as are declared by the Governor-General in Council to be of military importance:	
(*c*) Tramways within municipal areas; and	
(*d*) Light and feeder railways, tramways, other than tramways within municipal areas, in so far as provision is made for their construction and management by provincial legislation in accordance with procedure to be prescribed by standing orders of the provincial Legislative Council.	*Vide* note to item No. 6, All-India List.
6. Irrigation and canals, drainage and embankments, and water storage, subject to such control of the Governor-General in Council in the case of works affecting another province, territory or State as may be provided in Indian legislation.	
7. Land Revenue administration, as described under the following heads:—	
(*a*) Assessment and collection of land revenue:	
(*b*) Maintenance of land records, survey for revenue purposes, records of rights:	
(*c*) Laws regarding land tenures, relations of landlords and tenants, collection of rent:	
(*d*) Court of Wards, encumbered and attached estates:	
(*e*) Land improvement and agricultural loans:	
(*f*) Colonization and disposal of Crown lands and alienation of land revenue.	

Subjects	Remarks
8 Famine relief	
[illegible] re and tion [illegible] for ction and dis eases	[illegible]
10 Civil Veterinary Department including provision for veterinary training, improvement of stock, and prevention of animal diseases	
11 Fisheries	
12 Co-operative Societies, subject to Indian legislation	
13 Forests, including preservation of game therein	
14 Land acquisition, subject to Indian legislation as regards acquisition of land for public purposes	It is considered that in the case of land required for industrial purposes it should be open to the parties concerned to promote private Bills in the provincial legislatures
15 Excise, that is to say the control of production, manufacture possession, transport, purchase and sale of alcoholic liquor and intoxicating drugs and the levying of excise duties and license fees on or in relation to such articles, but excluding, in the case of opium, control of cultivation, manufacture and sale for export	*v* note to item 11, List of Provincial Subjects for Transfer

Subjects.	Remarks.
36. Prisons and reformatories, subject to Indian legislation.	
37. Pounds.	
38. Treasure trove.	
39. Museums (except the Indian Museum and the Victoria Memorial, Calcutta) and zoological gardens.	
40. Government Press.	
41. Franchise and elections for Indian and provincial legislatures, subject to Indian legislation.	
42. Regulation of medical and other professional qualifications and standards, subject to Indian legislation.	Under this head will fall the administration of the existing provincial Medical Registration Acts. Power is reserved to the Indian legislature in order to secure uniformity and maintain the standards of professional qualifications.
43. Control, subject to Indian legislation, of members of All-India services serving within the province, and of other public services within the province.	
44. New provincial taxes, that is to say taxes included in the schedule of additional provincial taxes (*v.* paragraph 75), so far as not included under previous heads.	
45. Borrowing of money on the sole credit of the province, subject to Indian legislation.	
46. Imposition of punishments by fine, penalty or imprisonment for enforcing any law of the province relating to any provincial subject, but subject to Indian legislation where that limitation otherwise applies to such subject.	
47. Any matter which though falling within an All-India subject, is declared by the Governor-General in Council to be of a merely local or private nature within the province.	

Section III.—Transfer of Functions to the charge of Ministers, and Powers of Governor in Council in relation to Transferred Subjects.

PART 1 —TRANSFER OF FUNCTIONS

42 Under clause III of our Reference we are required to advise as to which of the functions that are to be discharged by provincial Governments can be transferred at the outset in each province to the charge of Ministers In considering this question we have borne in mind the principles of selection laid down in paragraph 238 of the Joint Report, and we have treated Illustrative List No II showing transferred subjects, contained in Appendix II to the Joint Report, as the starting point for our deliberations We have received from the different provincial Governments proposals with regard to the transfer of subjects which have, in most cases, been prepared with special reference to this List

43 We have summarised in a schedule (Annexure I) the proposals of the different provincial Governments above referred to These proposals were, however, in some cases put forward subject to important reservations

His Excellency the Governor of Madras in Council prefaced his scheme for transfer with a note which we quote in full —

" The views of the Madras Government on the subject of the division of provincial subjects between Ministers and the rest of the Government, as proposed in the Report on Indian Constitutional Reforms have been set forth in the Hon'ble Mr Todhunter's letters No 948, dated 19th October 1918, and No 1104-A , dated 10th December 1918 As was intimated in those letters the Governor in Council believes that the scheme of dualism outlined in the report is not only unsound in principle but will in practice prove to be unworkable He decided therefore not to submit any scheme for the division of provincial subjects into two parts Such a scheme could appropriately be framed only by those who believed diarchy to be both practicable and desirable As, however, the Government of India have now instructed this Government to prepare such a list and have at the same time conveyed an assurance that the views of the [illegible] letters quoted above, will be placed on the offic [illegible] rms Committee dealing with the matter, [illegible] herewith transmitted to that Committee [illegible] ittee His Excellency the Governor in Council requests that, should the Committee desire to include [illegible] it may be accompanied [illegible] compliance with instruct [illegible] ernment had expressed [illegible]

His Excellency the Governor in Council desires to make it clear that the fact of his framing this list in deference to the wishes of the Government of India must not be taken to indicate that he has in any way withdrawn or receded from the objections he has taken to the whole scheme of diarchy, nor has anything emerged in the course of framing this list which has lessened the objections of the Madras Government to that scheme "

The Government of Bombay in their letter No 9745 of the 11th November 1918 had submitted to the Government of India an alternative scheme of constitutional reform which involved no division of the Executive Government They were, they stated, " unable to accept the

proposed scheme of Government as one which was likely to work satisfactorily in practice." We understand, however, that one Member of Council, while concurring with his colleagues in their preference for the alternative scheme, was not prepared to agree in the view expressed as to the scheme in the Joint Report. At the time of our visit the Government still held the same views on the main questions, and in the note they prepared for our assistance they say: "Experience of Council Government shows at once that, even as a temporary devise, the proposed distribution of functions must fail in its objects. Our suggestions detailed below must therefore be regarded as indicating the best scheme we can put forward in the circumstances."

The Punjab Government were also in favour of an alternative scheme which avoided any division of the functions of the provincial Government. In their letter No. 20432 of the 16th November 1918, to the Government of India, it was expressly stated that His Honour the Lieutenant-Governor's suggestions as regards transfer were in no way to be read as derogating from his previously expressed views on the general question.

The scheme prepared by the Chief Commissioner of the Central Provinces for a period of training for self-government did not involve the appointment of a Minister of the status suggested in the Joint Report, nor the transfer of any functions within the meaning of our reference. His note for the Committee accordingly contained no proposal for any such transfer. In preparing at our request a supplementary note on this part of our reference, he specified the subjects which were, in his opinion, least suitable for transfer if the scheme proposed in the Joint Report were finally approved.

A similar reservation was made by the Chief Commissioner of Assam in paragraphs 33 and 34 of his note on Constitutional Reforms. He there enumerates a number of subjects which he regards as suitable for transfer, either immediately or at a later stage, but qualified his recommendations in the following terms:—

> "It is perhaps unnecessary to point out that what I have written in the last two paragraphs is based upon two assumptions—first, that no subject connected with any of the hill districts is included in the portfolio of a Minister; secondly, that the Government of Assam is a corporate Executive Council constituted on the plan which has been recommended both by the Hon'ble Mr. Chanda and by myself. I have therefore refrained from using the expressions 'transferred' and 'reserved,' which are not strictly applicable to our scheme."

In his oral evidence, however, the Chief Commissioner stated that even if the scheme of the Joint Report was adopted, he was ready to adhere to his classification of subjects, so far as the more advanced portions of the province were concerned.

44. A great part of the evidence which we heard in the course of our provincial tour was directed to the question of transfer. In addition to the views of the provincial Governments, which were as a rule put forward by officers appearing as witnesses on their behalf, we received a great mass of information bearing on the work of different departments in the form of written memoranda prepared at our request by the officials concerned. A large number of the officials who appeared before us as

witnesses expressed to us their personal views on the suitability of their own departments for transfer, and the advantages or disadvantages which were likely to result from transfer or reservation as the case might be The non official evidence tended to concentrate itself on this part of our reference We received from non official witnesses written statements giving their personal views, or the views of the associations which they represented, both on the more general aspects of the question and on the suitability of particular subjects for transfer, and stress was also laid on the special circumstances of their own provinces We examined a number of these witnesses at length on the views expressed in their written statements The evidence necessarily ranged over a wide field and it is not possible to convey its effect in a summary, but on the completion of our tour we were in possession of a great quantity of material, which has been of assistance to us in applying to the different subjects the criteria laid down for our guidance in paragraph 238 of the Joint Report, and in judging of the weight to be given to special considerations affecting individual provinces

45 The conclusions which we have formed on the question of transfer will be found in the list of subjects for transfer which forms Part 3 of this Section of the Report We do not propose to deal at length with the great variety of issues involved in the preparation of this list, but there are certain points to which it is necessary to refer in order to explain departures from proposals contained in Illustrative List No II

(1) *Education* —We refer first to the subject of Education In dealing with this subject, we have borne in mind the paragraphs of the Joint Report relating to it, especially paragraphs 186 and 187 The suggestion in the Illustrative List is that university education should be reserved while education falling under the following heads—primary, secondary and technical—should be transferred We have received suggestions for making various divisions of the subject of Education, but we have come to the conclusion that the problem should be treated as a whole, and that any division of education, such as would result from the transfer of primary apart from secondary and university education, or from the transfer of primary and secondary apart from university education, is unsound in theory and would be unworkable in practice The actual drawing of the line between either primary and secondary or secondary and university education involves many difficult questions, and any such line, if made the basis of a division, would be bound to produce serious administrative complications We feel that there is great force in the observation in paragraph 186 of the Joint Report that "the main defect of the system (i e , the existing system of education) is probably the want of co ordination between primary and higher education, which in turn reacts upon the efficiency of secondary institutions and, to a great extent confines university colleges to the unsatisfactory function of mere finishing schools" We have already referred to the recommendations of the Calcutta University Commission, which have an important bearing on the question of the possibility of a division between secondary and university education We think the situation is fairly summed up in the following sentences extracted from the Fifth

Quinquennial Review on the progress of Education in Bengal (paragraph 299) by Mr. W. W. Hornell, who is a member of the Calcutta University Commission :—

"The existing educational system of India is an organic whole, no part of which can be modified without affecting vitally the other parts................. It is impossible to attack the problem by compartments. Secondly education depends upon primary education and university education upon both."

We have therefore recommended the transfer of education as a whole subject to the special provisions as to university legislation which are dealt with in paragraph 15, and to the further provisions proposed in the case of Bengal.

It will be seen, however, that we propose to exclude from the transfer European and Anglo-Indian education. Special considerations apply to this part of the educational system, which is organized on a separate basis of its own, and no serious administrative difficulties will arise owing to the reservation of this branch of the work of provincial Education Departments while the rest of their work is transferred.

It is further proposed that special duties in relation to educational matters shall be laid upon the Governor by his Instructions, for the purpose of safeguarding the interests of certain classes and institutions (*v.* paragraph 67).

With regard to technical education, it will be seen that we have assumed that the advice of the Industrial Commission to the effect that technical education should be dealt with by the Department of Industries will be adopted, and we have included it under the general head of 'Development of Industries' as a transferred subject.

(2) *Forests and Irrigation.*—There are two other subjects in regard to which suggestions have been made for a division of administration, namely Forests and Irrigation. Illustrative List II of the Joint Report proposes the transfer of "unclassed and some protected" forests and of "minor irrigation." In both these cases the division would involve placing one service under the control of two authorities in respect of different parts of its work between which no clear distinction is possible. In the case of both Forests and Irrigation, it is possible to detach part of the subject-matter and place it under the administration of a local authority. We contemplate the adoption of a plan whereby forests which mainly serve the needs of a village or group of villages may be placed under the management of a panchayat or other local authority (*vide* No. 10 Transfer List). In the case of Irrigation local authorities already in some places have powers regarding drainage and canals of merely local importance, and in Madras and the Punjab there is a recognised class of "minor irrigation works" which are controlled by the Revenue Department; but the distinction between major and minor works as known to the Irrigation Department cannot be accepted as a basis for division. The memorandum furnished to us by the Public Works Department of the Government of India deals with this point as follows: "This classification does not, as might be expected, bear reference to the size or importance of the works, but only to the source from which the funds are provided. All works constructed from loan

funds or from the annual Government of India grant for famine relief and insurance are classed as major, all other works, financed from the general revenues of the country, are classed as minor Thus the Fuleli Canal in Sind, which irrigates 400,000 acres, is a minor work, while the Khairadatan tank in the Central Provinces, built at a cost of Rs 90,000 to irrigate 2,500 acres, is a major work. Any division on these lines is therefore meaningless "

(3) *Industries* —As regards Industries we have not found it possible to draw any clear line between "local" and other industries Any distinction based on relative importance is rendered difficult by the inter-connection of all industrial matters The only division we have found possible is between the development of industries (No 24 Provincial List) and the administration of industrial laws (No 25 Provincial List) The former is recommended for transfer, and the latter for reservation

46 Several of our Members (Sir Chimanlal Setalvad, Dr Sapru and Sir Rahim Bakhsh) urged that Land Revenue administration, and with it Irrigation, should be made a transferred subject in Bombay and pointed to the exceptional conditions surrounding the subject in that province Sir Rahim Bakhsh urged such transfer in respect of the Presidency proper, but excluded Sind The majority of the Committee could not support the suggested transfer, and, in order to secure unanimity, the minority decided not to dissent The members of the minority wish, however, to record their desire for transfer in the special case of Bombay and also an expression of their earnest hope that in the next revision of the constitution, the whole question should be thoroughly investigated with a view to making Land Revenue administration a transferred subject not merely in Bombay but in the rest of the provinces

47 It will be observed that we propose that Irrigation should be a reserved subject in all provinces

Special considerations apply to Bengal The intimate relation between land revenue and irrigation in other provinces has, apart from any other consideration, precluded us from recommending the transfe of irrigation, though the reservation of this subject involves the division of the Public Works Department, which may cause administrative inconvenience in provinces where the two branches of that department—Roads and Buildings and Irrigation—have hitherto worked with a joint establishment In Bengal the existence of the permanent settlement fundamentally alters the situation, and irrigation work properly so-called is on a comparatively small scale The Irrigation Department of the Presidency is mainly concerned with drainage, embankments and waterways, and these have a very close connection with problems of sanitation and local self-government The control of waterways, however, in the network of rivers and channels that spreads over a great part of Bengal raises questions of the greatest difficulty, and mistakes made in comparatively small matters may have far-reaching consequences The question of control has been under discussion for many years, and proposals, not yet formulated in detail, have been made for the formation of a Waterways Trust, which would probably have its own staff of engineers, and

the Government of Bengal consider that if such a Trust were constituted it should be directly under the Government of India. This contemplated Trust would necessarily involve great administrative changes. Notwithstanding, therefore, the separation of irrigation from land revenue in Bengal, and its connection with sanitation and local self-government, we have not been able to recommend the transfer of irrigation in that Presidency.

48. There are certain subjects included in the Provincial List which cannot in themselves be either reserved or transferrd, and to these we must briefly refer:—

(1) Public Services (No. 43 in Provincial List). The Section on Public Services defines the position with regard to the authority of Ministers over members of the public services employed in transferred departments.

(2) Financial matters—Additional provincial taxes, and provincial borrowing (Nos. 44 and 45 in Provincial List). The position with regard to these matters is stated in the Section on Finance (paragraphs 75—80).

(3) Imposition of punishments by fine, penalty or imprisonment for enforcing any law of the province relating to any provincial subject, but subject to Indian legislation where that limitation otherwise applies to such subject (No. 46 in Provincial List).

This subject is included in the list for the purpose of defining the legislative powers of the province, but will not form a separate subject for purposes of administration.

(4) Any matter which, though falling within an All-India subject, is declared by the Governor-General in Council to be of a merely local or private nature within the province (No. 47 in Provincial List).

Any new subject allotted to the province under this general provision will be assigned by the Governor either to a reserved or to a transferred department under the power to be given to him in accordance with paragraph 239 of the Joint Report.

49. It is necessary to refer to certain features which in the two provinces of Assam and Bihar and Orissa complicate the questions we have to consider.

In Assam, two-thirds of the whole province are included in hill and frontier tracts, inhabited by simple tribes, governed in patriarchal fashion. These tracts are not represented in the Legislative Council, and local self-government is unknown, except in the municipality of Shillong. At the same time, as the Chief Commissioner points out in paragraph 5 of his note, the Legislative Council has power at present to pass laws which may be applied to the hill tracts, the administration of the hills must be financed from the plains, and the Legislative Council has in the past discussed the budget provision for the hills. He is unwilling to deprive the Council of such rights as it has hitherto enjoyed, and therefore proposes a solution which leaves the Council some sem-

blance of power in respect of these areas, but at the same time he would maintain the existing special methods of control over legislation which appear to us to be inconsistent with any real recognition of the Council's authority

In our view, if these special methods of control are necessary (and we do not question the opinion of the Chief Commissioner on this point), it is better not to make the pretence of bringing the tracts in which they are required within the scope of the Reform scheme We have not been able to find any satisfactory *via media* between inclusion and exclusion, and it is not clear that the reservation of *all* subjects in *particular* areas is a course which was contemplated by the authors of the Joint Report We recommend therefore that the tracts in question should be excluded from the jurisdiction of the reformed provincial Government If our recommendation is accepted they will be adminis tered by the Governor himself as proposed in paragraph 199 of the Joint Report

The exclusion of these hill tracts has an important bearing on our recommendations for transfer in the Assam and Surma Valleys The question of the transfer of Forests, for example hardly arises in a pro vince where the greater part of the work of the department lies in ex-cluded areas

It is much the same with Public Works Among the most important duties of this department are the construction and maintenance of hill and frontier roads, while, if the proposals of the Public Works Depart [illegible] mittee are accepted the work in connection [illegible] the valleys will be entrusted even more fully [illegible] ards and municipalities

In the case of Excise too the existence of these excluded areas is a determining factor The opium habit is strong in the population of the Assam Valley and there is a large consumption of liquor among the coolies of the tea gardens Both these habits are unfortunately spread ing among the hill tribes Government has done all that it can to check them but the success of its efforts depends largely on unified control of policy throughout the province Any weakening of the policy in the plains would necessitate a tightening of control in the hills where restric-tions are difficult to enforce and apt to be resented Apart from this the liquor problem in the tea gardens presents special difficulties Even as it is, constant complaints are received from the Managers of gardens in regard to the location of shops and it is thought that the difficulties might be increased if the subject were transferred

It should be noted that in view of the difficulties of communication between the two valleys—the Assam Valley and the Valley of the Surma —their lack of common interests and the different characteristics, religious and racial of their respective populations the Chief Commis sioner thought it advisable to provide in the scheme he submitted for what almost amounts to a separate administration for each valley We do not regard it as possible to give effect to this scheme but we under-stood from the Chief Commissioner that his recommendations as to transfer were not dependent on its adoption

50. The position in Bihar and Orissa is somewhat similar. It is fully explained in two letters from the Government of that province, which are printed in Appendix V. The first of these, no. 4097-P., dated the 9th November 1918, was addressed to the Government of India in the Home Department. The second, no. 33-C., of the 6th January 1919, was written in reply to certain enquiries made by us after we had heard the provincial evidence. The backward areas comprise 8 districts out of a total of 21. Their extent is rather less than half the total area of the province, and they contain about a quarter of the whole population.

The proposals made by the local Government in the earlier of their two letters are (1) that the Santal Parganas and Angul, which are the most backward of all the districts in question and are now outside the pale of the ordinary administration, should be excluded altogether from the scope of the Reforms scheme and the jurisdiction of the Legislative Council, and should continue to be administered by the Governor in Council, and (2) that "no hard and fast distinction between ordinary districts and the scheduled districts of Chota Nagpur and Sambalpur" should be made "in respect either of legislation or of administration," but that authority should be conferred "by statute on the Governor in Council

(1) to prescribe by notification the portions of the scheduled districts, if any, to which any Act or portion of an Act passed by the Legislative Council shall apply; and

(2) to decide to what portions of the scheduled districts, if any, the jurisdiction of the Minister in respect of any of the transferred subjects or any portion of them shall extend, and when such jurisdiction has been extended, to exclude any portion of the scheduled districts from the application of any order passed by the Minister."

The enquiries in reply to which the second letter was written related to the special purposes for which the Governor in Council should have power to intervene in transferred subjects, with a view to the protection of the primitive inhabitants of the Chota Nagpur and Sambalpur areas, which the local Governments proposed to include within the scope of the Reforms scheme, subject to the above safeguards.

The local Government in their reply state that these purposes are general rather than special, and that it is their intention that the power to intervene should be purely discretionary. If such power cannot be given, all the backward areas should be excluded, without exception.

We have been much impressed by the arguments which have been put forward; but, as we have stated in the preceding paragraph, we can find no *via media* between inclusion and exclusion.

At the same time, the exclusion of Chota Nagpur and Sambalpur is open to one objection which does not apply in the case of the hill tracts of Assam. They have representatives in the present Council and will have more in the reformed Council, if the recommendations of the Franchise Committee are accepted. Their presence may perhaps be

justified by the fact that the policy pursued in the more advanced area will necessarily react on these districts even if excluded The question as to whether there are portions of the latter which are in themselves fit for inclusion in the scheme and could therefore be made the subject of separate treatment will no doubt receive consideration from this local Government

In the case of Assam we found that the problems connected with the Backward areas had an important bearing on our recommendations for transfer in the rest of the province and we have in consequence been unable to advise the transfer either of Excise or Public Works In Bihar and Orissa we have not been asked by the local Government to make any such allowances in framing our recommendations for transfer of subjects in the more advanced portions of the province nor have we thought it necessary to do so

51 Mr Couchman after examining the proposals of the Franchise Committee for Madras which were supplied to him on the 22nd February feels unable to recommend the transfer of any subject in Madras He feels that without—

(1) communal representation for non Brahman caste Hindus

(2) adequate representation of Panchamas and rural areas and

(3) residential qualifications for candidates

it is inevitable that the Brahman minority will capture a large majority of the seats and that the interests of the masses would not be safe in their hands

He is prepared to give detailed arguments in support of his views to the Government of India or to the Right Honourable the Secretary of State if so desired

PART 2 —POWERS OF THE GOVERNOR IN COUNCIL IN RELATION TO TRANSFERRED SUBJECTS

52 Clause III (2) of the Reference to the Committee requires us to advise as to "the powers which should be exercised by the Governor in Council in relation to transferred subjects and the grounds on which and the manner in which these powers should be exercised and refers to paragraph 240 of the Joint Report This paragraph is also referred to in clause I of the Reference as enunciating principles by which the Committee is to be guided

53 The question of the authority of the Governor himself in regard to transferred subjects is not expressly referred to the Committee, but it is impossible for the Committee to deal with the position as regards intervention by the Governor in Council without making some assumption as to the power to be exercised by the Governor himself This question therefore arises incidentally

54 Paragraph 221 of the Joint Report has an important bearing on the questions which we are now considering This paragraph says— "There are questions upon which the function of the two portions of the Government will touch or overlap such for instance as decisions

on the budget or on many matters of administration. On these questions, in case of difference of opinion between the Ministers and the Executive Council, it will be the Governor who decides." Some of the cases of intervention specially contemplated in paragraph 240, that is to say, intervention in matters which concern law and order, or which raise religious or racial issues, or where the interests of existing services require protection, will certainly fall under the head of cases in which the functions of the two portions of the Government touch or overlap.

55. Paragraph 240, if taken literally, might seem to involve an arrangement whereby the Governor in Council would, in such cases, sit as a sort of Court of Appeal or Review on decisions of the Governor and Ministers, with power, if necessary, to take direct action in the administration of transferred departments for the purpose of giving effect to the conclusions arrived at on such appeal or review. Such a plan is not easy to reconcile with the proposals contained in paragraph 221, and would seem to involve an open interference with a Minister in the conduct of the transferred departments, of which he still remained normally in charge. Some of the objections to this plan are indicated in the Government of India Memorandum on the services (Annexure IV, paragraph 17).

56. It will be well to consider at this stage more closely what is to be the list of matters as to which some special safeguard is to be required on the lines indicated in paragraph 240, by action either of the Governor, or of the Governor in Council. The paragraph mentions—

Law and Order.

Religious and racial issues.

Interests of existing services.

Subsequent paragraphs of the Report suggest that special safeguards should also be provided for protecting missionary institutions (paragraph 345), for protecting the position of the Anglo-Indian community (paragraph 346) and for securing industries against unfair discrimination (paragraph 344). We think that clauses should be inserted in the Governor's Instructions dealing with the various points on which special safeguards are required. Draft clauses on the different points referred to are contained in a later paragraph (*vide* paragraph 67).

57. Paragraph 240 refers only to questions of administration, but in dealing with this matter it is necessary to bear in mind the proposals in paragraphs 252-254 as to legislation and in paragraphs 255-257 as to the budget. The proposal as to the Governor's power of certifying legislation in paragraph 252 suggests that his certificate should refer to his " responsibility for the peace or tranquillity of his province or any part thereof," and to his " responsibility for the reserved subjects."

58. Taking the situation as a whole, it is apparent that the questions arising in relation to matters intended to be safeguarded under some plan to be devised under paragraph 240 will sometimes be questions which, owing to their contact with reserved subjects, must be treated as mixed questions, and might therefore be held to fall under the provisions of paragraph 221 above referred to, and will sometimes be

matters not affecting in any definite way the functions of reserved departments, but involving the Governor's special responsibility under his Instructions It is necessary to distinguish in any plan proposed between these two classes of cases

59 We will deal first with cases affecting both reserved and transferred departments, to which it will be convenient to refer throughout as "mixed cases" or "mixed questions" These must be considered in the light of paragraph 221 as well as of paragraph 240 It seems desirable to lay down the general principle that the rule with regard to "mixed cases" should, as far as possible, be uniform It would be difficult, if not impossible, to draw any clear line of distinction between cases arising in a reserved department which affect the administration of a transferred department and cases arising in a transferred department which affect the administration of a reserved department, or to frame a satisfactory and workable rule based on such a distinction

60 Our proposal, based on this principle is that, where the functions of reserved and transferred departments touch or overlap, or where the action taken in one department is of such a nature as to affect the interests of the other, the following procedure should be followed —

(1) The Minister or Member of Council may ask for papers on action taken or proposed to be taken in matters affecting his department

(2) The matter will be discussed between the Member of Council and the Minister concerned

(3) If they fail to agree, one or the other will refer the matter to the Governor

(4) The Governor will see both Member and Minister, either separately or together

(5) If he fails to settle the matter between them, he will summon a joint meeting of the two sections of the Government, where the matter will be discussed but no vote will be taken

(6) If, after the discussion, there is still disagreement, the Governor will decide the matter If his decision involves action by a reserved department, he must obtain the concurrence of his Council in such action or override his Council under section 50 of the Government of India Act If the decision taken requires action by the transferred department, the Governor must require the Minister to comply with the decision and to take the action decided on

(7) If the Minister yields at this stage to persuasion, the action will be taken in the ordinary way by the Governor and the Minister, and the Minister will be responsible for the action taken and will have to defend it in the Legislative Council If, however, the Minister is obdurate, the Governor will have to dismiss him and find another Minister

(8) Provision must be made for emergencies in which it will be necessary for immediate action to be taken in relation to a transferred department before another Minister is found to take office. If such an emergency exists, the Governor will certify that the emergency does exist and that immediate action is necessary. On such certificate being given, the Governor in Council will have authority to take action, subject to the obligation of reporting to the Governor-General in Council. If, however, action can be postponed till a new Minister has accepted office, the Governor will appoint the new Minister on the understanding that he will concur in the necessary action, and the action will be taken after his appointment in the ordinary way by the Governor and Ministers.

If this plan is accepted it will be observed that the Governor in Council will only take action in a transferred department in the event of there being an emergency which necessitates action during a ministerial vacancy. That will be the only case of re-entry as long as the department remains a transferred department. Such re-entry will be for a temporary and limited purpose during an interregnum when there is no Minister. Such an interregnum will not normally be long.

61. It is necessary to note that this proposal involves a departure from paragraph 218 of the Joint Report, which proposes that Ministers shall hold office for the lifetime of the Legislative Council. Our proposal assumes that Ministers will hold office during the Governor's pleasure, and that he will have power to dismiss them. This seems essential if deadlocks are to be avoided.

62. There appear to be three main advantages in the plan above proposed. (1) The Minister will never be in the position of being formally overridden by the Governor in Council. If he yields on a point on which his policy comes into conflict with the Governor in Council, he will yield, not to a resolution passed by the official section of the Government, but to the personal judgment of the Governor who is associated with both sections of the Government. (2) The Minister will always be responsible for action in the transferred department in his charge even where such action is deflected by considerations affecting reserved departments. There is a vast difference between responsibility for action in the transferred department, as deflected by such considerations, and direct responsibility for the conduct of the reserved departments, from which it is of the essence of the scheme that the Minister shall be kept free. It is difficult to contemplate such an intermittent responsibility for a transferred department as is involved in the conception of a Minister in his own department being overruled by another authority, and repudiating any responsibility for the action taken, while still continuing to hold office. (3) The overruling of a Minister will always depend in the last resort on the Governor's personal judgment of the situation. The Governor, it may be assumed, will practically never force a view upon a Minister in a matter affecting a reserved subject unless he knows that he has the support of his Executive Council. At the same time he will never be bound, at the bidding of

his Executive Council, to take up a position which may force his Minister to resignation, break up his Government and produce a crisis in the Legislative Council

It may be noted that, in the case of legislation, the Governor alone has to certify under the scheme of the Joint Report, so that this proposal may be said to give him responsibility as to administration similar to that already proposed in the case of legislation

63 In pursuance of the plan outlined above we propose that, for the purpose of regulating the relations between the two portions of the Government and defining the authority of the Governor, rules should be laid down to the following effect —

(1) It shall be the duty of the Governor in Council in the case of reserved departments, and of the Governor and Ministers in the case of transferred departments to take care that the administration is so conducted as not to prejudice or occasion undue interference with the working of any department falling in the other category, and so as not to cast any undue burden upon officers serving under the other department

(The object of this clause is to lay down a general rule of a reciprocal character as to the relations between the two sections of the Government)

(2) It shall be the duty of the Governor—

(*a*) to decide any question which may arise as to whether a particular matter falls within the scope of a reserved or of a transferred department (*cf* paragraph 239 of the Joint Report)

(*b*) to take care that any order given by the Governor-General in Council is complied with by the department concerned, whether such department is reserved or transferred, and

(*c*) in the case of disagreement between the Executive Council and Ministers as to action to be taken in any matter which appears to the Governor to affect both a reserved and a transferred department, to give, after due consideration of the advice tendered to him, such decision as the interests of good government may seem to require, provided that, in so far as circumstances admit, before such decision is given, the matter shall be considered by both sections of the Government sitting together

(3) The Governor's decision in such cases shall be duly recorded and thereafter the matter shall be dealt with in accordance therewith, in the case of action required in a reserved department by the Governor in Council, subject to the provisions of section 50 of the Government of India Act, and in the case of action required in a transferred department by the Governor and Ministers

(4) If, owing to a vacancy, there is no Minister in charge of a transferred department, and it shall appear to the Governor that it is necessary,

by reason of some emergency, to take action in regard to such department notwithstanding such vacancy, the Governor shall certify accordingly, and thereupon it shall be competent for the Governor in Council to take action in regard to such transferred department in the same way as if the department were a reserved department, but only while such emergency continues and such vacancy remains unfilled, and a copy of the Governor's certificate and the particulars of any action so taken shall be forwarded forthwith for the information of the Governor-General in Council.

64. The effect of the Committee's proposals as to the Public Services contained in paragraph 70 will be that the special matters affecting the services on which joint deliberation is to be required will be treated as if they all were, as many of them in fact will be, matters which affect both reserved and transferred departments. Certain other matters referred to in the same paragraph, *e.g.*, the control of services whose pay is debited to more than one head, and alteration in the rules for recruitment when they affect a transferred department, will also fall to be dealt with as "mixed cases."

65. Paragraphs 77, 79 and 80 of the section on Finance contain proposals as to the extent to which the rules above suggested for dealing with "mixed cases" should apply to financial matters.

66. The other class of cases contemplated by paragraph 240 remains to be considered, namely cases which are not regarded by the Governor as affecting both reserved and transferred departments, and therefore do not rank as "mixed cases," but which involve matters which the Governor is specially required to safeguard.

In these cases the necessity for joint deliberation will not arise. It will be for the Governor to discharge the responsibilities specially laid upon him by his Instructions, and, if necessary, for this purpose to overrule either his Executive Council or his Ministers. The position as to giving effect to his decision will be the same as in "mixed cases," that is, it will have to be carried out by that portion of the Government which is immediately concerned. It will always be open to the Governor to submit the matter for joint deliberation, if he so chooses, but there will be no rule requiring him to do so. Should he unfortunately find himself in disagreement with a Minister in some matter in which, in view of his special responsibility under his Instructions, he felt it his duty to insist on his own opinion even at the cost of losing his Minister, and should the Minister resign, then the work of the transferred department during any interval that ensued before a new Minister was appointed would, if the emergency required it, have to be carried on under the authority of the Governor in Council pending the appointment of the new Minister, in accordance with the provisions suggested in paragraph 63 (4) of this Report.

67. We recommend that clauses to the following effect should be inserted in the Governor's Instructions. We have already referred to the various matters as to which it has been suggested in the Joint Report that special safeguards are required, and have indicated the manner in

which effect may be given to such Instructions (*vide* paragraphs 56, 66) —

" (1) The Governor shall be specially charged with the responsibility of maintaining peace and tranquillity within his province, and of preventing occasions of religious or racial conflict (*cf* paragraph 240 of Joint Report)

(2) The Governor shall not sanction the grant of monopolies or special privileges to private undertakings which are inconsistent with the public interest, nor shall he permit any unfair discrimination in matters affecting commercial or industrial interests (*cf* paragraph 344 of Joint Report)

(3) The Governor shall be charged with the duty of safeguarding the legitimate interests of the Anglo-Indian or Domiciled Community (*cf* paragraph 346 of Joint Report)

(4) It shall be the duty of the Governor to protect all members of the Public Services in the legitimate exercise of their functions and enjoyment of all recognized rights and privileges (*cf* paragraphs 240 and 325 of the Joint Report) "

It is recommended that, in order to provide for the protection of special interests in educational matters, clauses should also be included in the Governor's Instructions, requiring him—

(1) to secure that any existing educational facilities specially provided by the provincial Government for the benefit of Muhammadans shall not in the aggregate be diminished

(2) to take care that no change of educational policy, affecting adversely Government assistance afforded to existing institutions maintained or controlled by religious bodies, is adopted without due consideration (*cf* paragraphs 240 and 345 of Joint Report), and

(3) (in the case of Madras only) to secure that due provision is made for the educational advancement of depressed and backward classes

NOTE —Mr Couchman and Mr Thompson agree with the greater part of Section III, Part 2 They are of opinion, however, that the correct interpretation of those portions of paragraph 221 and paragraph 240 of the Joint Report which are referred to in paragraph 54 is that, while in all ordinary cases of overlapping paragraph 221 would apply and the Governor would decide, it is not impossible that extreme cases might arise which would justify the exceptional procedure suggested in paragraph 240 In these cases, the Governor in Council would have power to intervene with full effect

Mr Couchman and Mr Thompson think it most important that the Governor in Council should have this power in extreme cases where the maintenance of law and order is at stake, and would therefore entrust the final decision in such cases to the Governor in Council rather than to the Governor personally They would add at the end of the first sentence of paragraph 60 (6) the words " unless a member of Council asks that the matter should be decided by the Governor in Council, on the ground that the maintenance of law and order is seriously imperilled " If the Minister, after full consideration declined to identify himself with the orders, they would issue in the name of the Governor in Council

PART 3.—LIST OF PROVINCIAL SUBJECTS FOR TRANSFER.

Serial No.	Number in provincial list.	Subject.	Provinces in which transferred.	REMARKS.
1	1	Local self-government, that is to say, matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health and other local authorities established in the province for purposes of local self-government, exclusive of matters arising under the Cantonments Act, and subject to Indian legislation (*a*) as regards powers of such authorities to borrow, otherwise than from a provincial Government, and (*b*) as regards the levying by such authorities of taxation not included in the schedule of provincial and local taxation (paragraph 82).	In all provinces .	It is contemplated that other matters will from time to time be entrusted to local authorities by legislation; where such matters form part of "reserved subjects" the Bill will be reserved for the consideration of the Governor-General (*vide* paragraph 36). The question of control, if any, to be exercised over policemen or watchmen by local authorities should be left to be determined by provincial legislation relating to local self-government. Pounds, where they are managed by local authorities, will come under local self-government.
2	2	Medical administration, including hospitals, dispensaries and asylums and provision for medical education.	In all provinces .	It will be noted that it is proposed to reserve "Regulation of medical and other professional qualifications and standards," and to make this matter subject to Indian legislation (*vide* Provincial List item 42). The administration of the Medical Registration Acts will thus be reserved, and the power of securing uniformity of standards will remain with the Indian legislature.
3	3	Public health and sanitation and vital statistics.	In all provinces	"Port quarantine and marine hospitals" is an All-India subject. The Sanitary Department will be responsible for the compilation of vital statistics, but at present in most provinces will have to rely on the services of other departments for their collection.
4	4	Education, other than European and Anglo-Indian education, excluding— (1) the Benares Hindu University, and (2) Chiefs' Colleges, subject to Indian legislation— (*a*) controlling the establishment, and regulating the constitutions and functions of new universities, and (*b*) defining the jurisdiction of any university outside its own province, and in the case of Bengal, for a period of five years from the date when the reform scheme comes into operation, subject to Indian legislation with regard to the Calcutta University and the control and organisation of secondary education.	In all provinces .	Reformatory schools which are controlled by the Education Department should, subject [illegible] of the [illegible] in the [illegible] arrangement, be included in the transfer. It is suggested that the Governor shall be required to have special regard to certain interests in education (*vide* paragraph 67). As to the special provisions made regarding universities, *vide* paragraph 15.

Serial No	Number in provincial list	Subjects	Provinces in which transferred	Remarks
5	5	Public Works included under the following heads — (a) Provincial buildings (b) Roads bridges and ferries other than such as are declared by the Governor General in Council to be of military importance (c) Tramways within municipal areas and (d) Light and feeder railways tramways other than tramways within municipal areas in so far as provision is made for their construction and management by provincial legislation in accordance with procedure to be prescribed by standing orders of the provincial Legislative Council	In all provinces except Assam	As to Assam, vide paragraph 49 Vide note to item No 6, All India List
6	9	Agriculture including research institutes experimental and demonstration farms introduction of improved methods provision for agricultural education protection against destructive insects and pests and prevention of plant diseases	In all provinces	Vide note to item 9 Provincial List
7	10	Civil Veterinary Department including provision for veterinary training improvement of stock and prevention of animal diseases	In all provinces	Vide note to item 10 Provincial List
8	11	Fisheries	In all provinces except Assam	In Assam the restrictive measures taken for the protection of fish have been unpopular and the administration of fisheries is closely connected with the Land Revenue Department Mr Couchman would reserve Fisheries in Madras He feels that this subject which is of great importance to the poorer classes of the population would if transferred not receive sufficient attention in Madras as the higher castes who take the leading part in political life in that Presidency, do not themselves eat fish and have so far displayed little interest in the subject of Fisheries The Committee consider that this subject should not be separated from the subjects of Industrial Development and Co-operative Credit with which in Madras it is intimately connected
9	12	Co-operative Societies subject to Indian legislation.	In all provinces	

Serial No.	Number in provincial list	Subjects.	Provinces in which transferred.	REMARKS.
10	13	Forests, including preservation of game therein.	In Bombay only .	The existing powers of the Governor-General in Council under the Forest Act will remain, and any provincial legislation affecting them will be subject to previous sanction. The Committee consider that any division of the work of the Forest Department is undesirable, but, in places where the main purpose of a forest is to supply the needs of a village or a group of villages, the plan of entrusting the control of the forest to a village committee, panchayat or other local authority, on lines similar to those on which the experiment has been tried in Madras, might be adopted. It will be open to a provincial legislature by amendment of provincial laws relating to local self-government to provide for the adoption of this plan where circumstances render it suitable (*vide* paragraph 15). The Committee's general conclusion is that this subject, Forests, is not suitable for transfer at the outset. In Bombay, however, the Government have proposed the transfer of Forests. The Committee have taken this proposal into account, and also the special circumstances of Bombay, among which may be mentioned the fact that there are no large tracts of forest in excluded areas. They think there is some advantage in trying the experiment of transfer in one province, and regard Bombay as the most suitable province to select.
11	15	Excise, that is to say, the control of production, manufacture, possession, transport, purchase and sale of alcoholic liquor and intoxicating drugs, and the levying of excise duties and license fees on or in relation to such articles, but excluding, in the case of opium, control of cultivation, manufacture and sale for export.	In all provinces except Assam.	As to Assam, *vide* paragraph 49. With reference to the proposed restriction of the purposes for which the Government of India will exercise their power to intervene in transferred subjects (*v.* paragraphs 16-17), the following points affecting Excise require special mention:— (1) The power of the Government of India to safeguard the administration of customs revenue will involve power to control the incidence of excise revenue (*i*) on any liquor which is likely to compete directly with imported liquor, and (*ii*) on any article imported into British India which is liable on importation to the payment of customs duty.

Serial No	Number in provincial list	Subjects	Provinces in which transferred	REMARKS
				(2) With regard to provincial action restricting the introduction into a province of excisable articles the position will be as follows — The Government of India will be entitled to intervene, in the case of excisable articles imported from outside British India, to protect their customs duties, and in the case of excisable articles in transit from or to other provinces territories and States of India for the purpose of protecting the interests of such other provinces territories or States (3) The Government of India will be entitled to intervene in matters affecting the supply of excisable articles to His Majesty s forces In Madras and Bombay, Excise, Salt and Customs are dealt with under a unified system of administration Salt and Customs are All India subjects and the question of making arrangements for the separate administration of these subjects when the transfer of Excise takes effect will require consideration by the Government of India Mr Couchman would not transfer Excise in Madras In view of the importance of Excise as a source of revenue in Madras, he thinks it would be unwise to jeopardize it He is also apprehensive that popular control of the liquor traffic may lead to an increase in drunkenness and crime in Madras, and points to the experience of Pondicherry, where the consumption per head of population is nearly fifteen times that of the adjoining portions of the Madras Presidency The Committee do not consider that the position in Madras is such as to justify the reservation of this subject
12	20	Registration of deeds and documents subject to Indian legislation.	In all provinces	
13	21	Registration of births, deaths and marriages, subject to Indian legislation for such classes as the Indian legislature may determine	In all provinces	*Vide* note to item 21, Provincial List
14	22	Religious and charitable endowments	In all provinces	*Vide* paragraph 15
15	24	Development of industries, including industrial research and technical education.	In all provinces	The Committee have been unable to draw any dividing line between 'local' and other industries (*vide* paragraph 45)

Serial No.	Number in provincial list.	Subjects.	Provinces in which transferred.	REMARKS.
16	26	Adulteration of food-stuffs and other articles, subject to Indian legislation as regards export trade.	In all provinces .	It is considered that the functions of the provincial Government under this head will mainly be discharged through or in conjunction with local authorities.
17	27	Weights and measures, subject to Indian legislation as regards standards.	In all provinces.	
18	30	Museums (except the Indian Museuml and the Victoria Memoria, Calcutta) and zoological gardens.	In all provinces.	

Section IV.—Public Services.

68. We propose to deal in this section of our Report with the following points affecting public services which fall within our references, *viz.* :—

(1) The functions which should be discharged by provincial Governments in relation to the public services,

(2) The control that should be retained by the Government of India, and

(3) The powers which should be exercised by the Governor in Council in regard to members of the public services employed in transferred departments.

69. We have received from the Government of India a Memorandum on "The Public Services under Reforms," which has been of great assistance to us in considering this question. This Memorandum, which forms an annexure to our Report (Annexure IV), has afforded the basis for our consideration of the subject, and we think that our views can most conveniently be stated in the form of a commentary on this Memorandum, with which we are in general agreement in so far as the proposals which it contains relate to matters falling within our reference. The points on which we suggest some modification of these proposals will be dealt with in relation to the paragraphs of the Memorandum in which they appear.

Classification. Para. 3.

70. For the purpose of dealing with the subject we accept the classification set out in paragraph 3, *viz.*, Indian (which we shall call All-India services), provincial and subordinate.

No service should be included as an All-India service without the sanction of the Secretary of State, while the demarcation between the provincial and subordinate services should be left to the provincial Governments.

The professional division is, it is assumed, intended to include professional officers recruited on special contracts who do not fall within any of the other three classes

Para. 5.

We consider that any variation in the provincial cadre of an All-India service, whether by way of increase or decrease, should require the sanction of the Secretary of State The proviso that every new permanent post created in the provinces must be added to the cadre of the service to which its duties most closely correspond does not appear to us to be workable, and for practical purposes the object sought can be attained by requiring previous sanction to the creation of new provincial appointments on a pay of Rs 1,000 or over, as proposed by the Government of India in paragraph 24

Pay. Paras. 9 and 10

The temporary additions to the cadre of All-India services should be on salary and allowances not exceeding those permissible for appointments of a similar nature or status within the regular cadre

Para. 11.

We think that it will tend to avoid conflict with the audit authority if the allowances other than acting or exchange compensation allowances are governed by rules made by the local Governments subject to the control of the Government of India Regulations regarding house rents should be dealt with in the same way

Allowances. Paras. 12-13.

It is assumed that the rules regulating foreign service in Native States will be made by the Government of India

Foreign Service. Para. 15

We agree that the Governor in Council should not be brought in as a formal agency of arbitration in the grievances of public servants and recommend that the following procedure should be adopted The statutory rules should provide that no orders affecting adversely emoluments or pensions, no orders of formal censure and no orders on memorials shall be passed with regard to officers of All-India services in transferred departments without the personal concurrence of the Governor If, as we propose, the Medical Department is transferred, the statutory rules should provide that the private practice of the Indian Medical Service shall be regulated only by the Secretary of State, and that the Governor's personal concurrence shall be obtained to any order of transfer of an Indian Medical Service officer, because, owing to variations in the value of private practice in different appointments an order of transfer may seriously affect emoluments The Instrument of Instructions to the Governor should, in addition to the general provision proposed by the Government of India provide that, before any order belonging to any of the classes described in the preceding part of this paragraph is passed to the disadvantage of any officer of an All-India service, whether serving in a transferred or reserved department, the Governor shall submit the matter for joint deliberation

Administration and Discipline Paras 17-19

by both sections of the Government.* Appeals should lie to the Government of India and the Secretary of State against all such orders, except those relating to transfers of Indian Medical Service officers. No officer of an All-India service should be dismissed except by order of the Secretary of State.

Para. 21.

When an officer's pay is debited to more than one head and one of these heads is transferred the question of his control for the purpose of posting, promotion and discipline should be dealt with in accordance with the general rules regulating cases where both reserved and transferred departments are affected.

Provincial Services. Para. 22.

Pending legislation, the existing rules regarding conditions of service should *mutatis mutandis* be binding on the Ministers as regards transferred departments.

Recruitment. Para. 23.

Where alterations of rules for recruitment affect a transferred department the matter should be dealt with in accordance with the general rules regulating decisions in cases where both reserved and transferred departments are affected.

Administration and discipline. Para. 30.

We consider that in the case of existing members of provincial services the procedure suggested in the case of members of All-India services should apply, with the proviso that there should be no appeal to the Secretary of State where the present rules do not allow such an appeal. In the case of future entrants to the services there need be no provision for joint deliberation before the passing of orders of the kind described, but all such orders, and an order of dismissal, should require the personal concurrence of the Governor, and an appeal should lie only to the Government of India.

Summary. Para. 36 (1).

It is suggested that as far as possible the members of All-India services should be secured in the benefits of the conditions under which they were recruited. It is recognised that the Secretary of State reserves the right to alter those conditions, but in practice the principle is accepted that such alterations shall not press harshly on the members of the services and we consider that this principle should be formally recognised in the future.

Paras. 18 and 30.

We are of opinion that it would not be within the terms of our reference to consider the proposal that in certain circumstances officers of the public services should be granted permission to retire on proportionate pensions.

Para. 34.

As the proposal for a Public Service Commission is only in its initial stage we do not feel able to express an opinion upon it.

71. There are two further questions to which we wish to refer here. There are certain medical appointments which are in the gift of the

* Mr. Couchman and Mr. Thompson are unable to support this recommendation so far as it affects officers serving in reserved departments, except where a transferred interest is concerned. They consider that the Committee should not enter into the question of the right of Ministers to influence the administration of reserved subjects, and they regard the recommendation in so far as it affects the officers referred to, where transferred interests are not concerned, as uncalled for.

Government of India, we do not intend that our proposals should be taken as altering this arrangement, any modification of which should rest with the Government of India Similarly, though the post of Director of Public Instruction is not included in the provincial cadres of the Indian Education Service, the position is made clear by the following quotation from the Government of India Resolution No 679 of the 12th September 1906 "The latter Resolution (of 4th September 1886), while not giving members of the Education Service an absolute claim to succeed to the post of Director, contemplated that, before appointing a person not belonging to the service, local Governments should, in the event of their considering it desirable to fill the post otherwise than from the local educational staff, seek the assistance of the Government of India with a view to procuring a suitable selection from the Educational Department of some other province" This position we do not desire to disturb

Section V.—Finance.

72 In regard to the subject of Finance we found it necessary to limit the scope of our inquiries We have assumed that the finances of the Government of India and of provincial Governments will be separated on the lines proposed in paragraphs 200 to 208 of the Report and have taken the view that it was not within our scope to consider any modification of these proposals Again, the control of the Government of India over provincial Governments is at present exercised largely through the rules in the financial codes but the relaxation of these restrictions will, we understand, be separately considered (*vide* paragraph 292 of the Report), and we have not attempted to deal with the subject Apart from these important questions however, we felt that it was part of our duty under the terms of our reference to define as far as possible in the sphere of finance the control to be retained by the Government of India and to indicate how the functions of the provincial Government as regards finance should in our opinion be apportioned between the Governor in Council and the Governor and Ministers In doing so we have carefully considered a Memorandum on Finance (*vide* Annexure V), with which we were furnished by the Government of India, containing their views on certain changes which will be required in the financial organization, particularly of provincial Governments, under the Reforms scheme The portions of the Memorandum which we have specially considered fall under the following heads —

(1) Accounts and Audit (Paragraphs 14, 28 and 29),

(2) The position of the Finance Department in the provincial Government (Paragraphs 24 to 27),

(3) Taxation for provincial purposes (Paragraph 20),

(4) Borrowing on the sole credit of provincial revenues (Paragraph 21),

(5) Control over the provincial balances (Paragraph 22)

As will appear from what is said in the following paragraphs we are in general agreement with the proposals contained in the Memorandum

under these heads. We may add that we have found it convenient to include in this Section our recommendations regarding the control of the Government of India over taxation and borrowing by local bodies.

Accounts and Audit.

73. The proposals in the Memorandum regarding accounts and audit affect both what may be called "Parliamentary" control over expenditure and the relations of the Government of India with the provincial Governments. In this matter we can only express our concurrence with what is stated in the Memorandum. The procedure proposed in paragraph 29 will enable the Legislative Council to exercise an effective control over expenditure and for the present the existing system of accounts and audit will continue. Under that system—

(1) The provincial accounts will be compiled and audited by a staff appointed, paid for and controlled by the Government of India:

(2) The main framework of the provincial accounts will be settled by the Government of India and the Secretary of State, though the details will, in large measure, be left to the provincial Governments:

(3) The Treasury Officer, though appointed and paid by the provincial Government, will, in matters of accounts procedure, the remittance of treasure and the transfer of funds to and from the currency balance, be bound by the general rules and instructions of the Government of India and by orders issued to him by Accounts Officers.

We note, however, that the Government of India contemplate that with complete provincial autonomy the provincial accounts will be compiled and audited by an entirely separate staff, paid for by the province and for audit purposes subordinate to a provincial Auditor-General.

Position of the Finance Department in the provincial Government.

74. In accordance with the proposals contained in paragraphs 24 to 27 of the Memorandum the Finance Department will be a reserved department and will not be transferred to the control of a Minister (as regards new taxation and borrowing see paragraphs 75—80 below). In relation to transferred departments, however, the functions of the Finance Department will be to advise and criticise, and the final decision will rest with the Minister, subject to the assent of the Governor, which would only be refused "when the consequences of acquiescence would clearly be serious" (paragraph 219 of the Joint Report). We agree that this is the best arrangement. The only comments that appear necessary are the following:—

(*a*) Paragraph 27 (2).—We consider that the report of the Finance Department on the scrutiny proposed in this paragraph should be placed before the Governor in Council or Governor and Minister, as the case may be, but should not be laid before the legislature unless the Governor so directs.

(*b*) Paragraph 27 (2) —We consider that the statement that it will be part of the duty of the Finance Department to discuss the necessity of the expenditure and the general propriety of the proposals put forward calls for the following comment It is understood that general propriety means in this context general propriety from the financial point of view There must obviously be limits to criticism by the Finance Department in matters of policy, but these limits must be left to be settled by convention

(*c*) Paragraph 27 (3) —We consider that the Government of India rule quoted in paragraph 11 of the Memorandum should be adopted in all provinces, *mutatis mutandis*

(*d*) Paragraph 27 (6) (*b*) and (*c*) —We understand that by the 'authority which passed the budget' is meant the Legislative Council We assume that the Governor by exercise of his special authority under Section 50 of the Government of India Act will still be able in exceptional cases to override the Finance Department in matters falling under (*b*) and (*c*), and we think the position on this point should be made clear

Taxation for provincial purposes

75 In paragraph 20 of the Memorandum a list is contained of the additional taxes which provincial Governments migth be allowed to impose without the previous sanction of the Government of India According to the proposals these taxes are to be included in a schedule which would be established by rule and not by statute and might therefore be corrected or enlarged in the light of experience The schedule proposed by the Government of India is as follow —

Any supplement to revenues which are already provincial, *e g*, cesses on the land, enhanced duties on articles that are now excisable, higher court fees, increased charges for registration, etc

Succession duties

Duties upon the unearned increment on land

Taxes on advertisements, amusements (including totalisators) and specified luxuries

In one point only the schedule appears to us to require modification It is not clear exactly what forms of land taxation would be covered by the entry " Duties upon the unearned increment on land," and it seems to us desirable that the entry should be so framed as to make the provincial powers of land taxation as wide as possible We may point out, however, that some forms of land taxation, *e g*, a tax on successions or transfers, might be most conveniently collected by means of a stamp duty, and in that case the tax would affect a source of revenue reserved to the Government of India It ought, we think, to be made clear whether, in such cases, the inclusion of a land tax in the schedule is to

exempt provincial Governments from obtaining the previous sanction of the Governor-General under section 79 (3) (*a*) of the Government of India Act.

76. In paragraph 257 of the Report it is proposed that, if the residue of the provincial revenues (after the contribution to the Government of India and the allotment for reserved services have been set aside) is not sufficient, it should be open to Ministers to suggest fresh taxation. This feature of the scheme appears to us to fix on the Ministers the responsibility of divising means whereby any deficiency in the public revenues may be made good. It must, therefore, be open to Ministers to initiate within the Government such proposals as may seem suitable for this purpose, and it will be the Minister who will be responsible for placing taxation proposals before the legislature. It seems to us to follow that, when any new tax or any proposed addition to an existing tax requires legislation to give effect to it, the decision whether that legislation should be undertaken must rest with the Governor and Ministers. Further, inasmuch as the whole balance of the revenues of the province (after deducting the contribution to the Government of India, the sums required for the service of the provincial debt and the sums allotted to the reserved services) will be at the disposal of the Ministers for the administration of the transferred departments, we think that, when an existing tax cannot be reduced or remitted without legislation, the decision whether such legislation should be undertaken must also rest with the Governor and Ministers. To the extent indicated above, therefore, taxation for provincial purposes should be regarded as a transferred subject.

It would not necessarily follow, however, that the collection of a new or additional tax would rest with the Ministers. That would ordinarily depend on the agency to be employed in assessing or collecting the tax, a matter which would presumably be settled by the legislation authorising its imposition. The assessment or collection of the tax would, therefore, be reserved or transferred, according as the agency employed belonged to a reserved or to a transferred department.

77. We have considered how far the transfer of provincial taxation discussed above would be affected by the plan proposed for dealing with mixed questions (*vide* paragraph 60). When a taxation Bill is proposed by Ministers, it may appear that some interest, the care of which is entrusted to the Governor in Council, is likely to be prejudiced. In such cases if the Executive Council adhered to its objections it would be for the Governor finally to decide in accordance with the usual procedure. But when a reserved department is affected only because it is proposed to assess or collect the tax through its agency, we think that in that case the Executive Council should be entitled to press their objections only as to the use of the agency, and that the merits or demerits of the tax should be left entirely to the decision of the Governor and Ministers. This would not exclude joint deliberation, and indeed we take it for granted that in practice joint deliberation would invariably precede the introduction of a taxation Bill.

78. We consider that it should be duty of the Finance Department to prepare a report on every taxation Bill proposed to be introduced into

should, we think, be confined to the financial aspects of the proposed tax and should not deal with questions of policy

79 In some departments under the existing law the assessment of revenue or the fixing of the rates of duty is left to executive action, and the question how in these cases variations in the rates of taxation are to be dealt with must be separately considered Land revenue, for example, is assessed according to certain established principles, and the amount of the assessment does not depend on the financial exigencies of the moment In the Excise Department again, the declared policy of Government has been to raise the maximum revenue from the minimum consumption, and, when a higher duty can be imposed without unduly stimulating illicit practices, it may be proper to raise the duty even though no increased revenue is required In cases such as these it is through the assessment of revenue and the fixing of the rates of duty that the policy under which the department is administered finds its concrete expression, and it is only those responsible for determining policy who can properly decide We are of opinion, therefore, that, when alterations in taxation can be effected without any change in the law, the decision whether any alteration should in fact be made must be recognized as resting with the Governor in Council if the department is reserved, and with the Governor and Ministers if it is transferred It is no doubt true that decisions such as these, as well as the general administration of a law authorizing taxation, must affect the joint financial resources of the Government, but it cannot be admitted that merely on that account both reserved and transferred departments are affected in the sense that a Minister or a Member of Council would be entitled to press his views upon the department directly concerned, and, if his view were not accepted, to ask the Governor to deal with the matter in accordance with the plan proposed for 'mixed cases' (*v* paragraph 60)

Borrowing on the sole credit of provincial Revenues

80 The effect of the proposals in the Memorandum appears to be as follows The provincial Governments must ordinarily borrow through the Government of India, but, subject to the approval of the Government of India as to the method of borrowing, including the rate of interest and the time of borrowing, provincial Governments would be at liberty to borrow in the Indian market in the following cases, *viz* —

(1) if the Government of India found themselves unable to raise in any one year the funds which the province required, or

(2) if the province could satisfy the Government of India that there was good reason to believe that a provincial project would attract money which would not be elicited by a Government of India loan

The funds raised by provincial borrowing should be devoted only to—

(1) expenditure on famine relief and its consequences,

(2) financing of the provincial loan account, and

(3) capital purposes, *i e*, expenditure which produces permanent assets of a material character

When a province borrowed for non-productive purpose it would be required to establish a sinking fund on a basis to be approved by the Government of India.

To these proposals, with which we agree, we have only one addition to make. We are of opinion that borrowing is a matter in which both sides of the Government must be considered to be interested, since the security of the loan will be the whole revenues and assets of the provincial Government. We consider, therefore, that, if after joint deliberation there is a difference of opinion between the Executive Council and the Ministers, the final decision whether a loan should be raised and as to the amount of the loan must rest with the Governor.

Control over provincial balances.

81. In paragraph 22 of the Memorandum certain proposals are made regarding the control of the Government of India over provincial balances. It is suggested that the allowance made for famine expenditure in the new provincial settlements should be earmarked in the provincial balances or invested, unless it is spent on purposes which, in the local Government's recorded opinion, would have a direct and calculable effect in palliating the consequences of drought. Each local Government would also be required to give timely intimation in each year of its intentions as regards drawing on its credit with the Government of India, and would, in the absence of famine or other grave emergency, be obliged to adhere to its programme. On the other hand the existing rules which require a local Government to maintain a certain minimum balance and not to budget for a deficit without higher sanction would be abrogated. These recommendations have our entire concurrence.

Control of the Government of India over local and municipal finance.

82. We have considered how far the Government of India should reserve control over taxation by municipalities and other local bodies. If the matter were left entirely to provincial legislation it might easily happen that local taxes would affect the sources of revenue reserved to the Government of India. Thus for example in several provinces municipalities may impose a tax on persons following professions, trades and callings, including those who hold appointments remunerated by salaries or fees. Such a tax is clearly of the nature of an income-tax, and the Government of India should have full power to protect their own revenues. Again, under the Calcutta Improvement Act three special taxes are imposed, the revenues from which are received by the Improvement Trust, *viz.*:—

(1) A terminal tax on passengers arriving at or departing from Calcutta,

(2) An export tax on jute, and

(3) A duty on all transfers of real property within the municipality of Calcutta.

The first of these taxes, in so far as it takes the form of a surtax on railway tickets, and both the other two, are obviously within the sphere

of taxation reserved to the central Government, and in the case of such taxation the previous sanction of the Government of India ought to be required We are of opinion that a schedule of municipal and local taxation should be prescribed by the Governor-General in Council The schedule might include all taxes admissible under the existing law of the various provinces, so long as they do not trench on the sphere of the central Government, and should also include all taxes contained in the provincial schedule (*vide* paragraph 75) The previous sanction of the Government of India would then be required to the imposition of any tax not covered by the schedule, or to provincial legislation which empowered local bodies to impose such a tax

83 We have also considered how far borrowing by local bodies should be subject to the control of the Government of India Where a local body borrows, as is commonly the case, through the provincial loan account, no special control appears necessary, since either the funds will be provided from provincial balances or the local demand will be incorporated in the provincial loan for the year Where a local body desires to borrow in the Indian market the Government of India are entitled to exercise control to the same extent and for the same reasons as they control provincial borrowing, though this control may well be relaxed when the loan proposed to be taken is not large in amount Where the control of the Government of India is reserved by any existing law, the relaxation of that control by legislation would require the previous sanction of the Governor-General

Proposals of Sir James Meston

84 We have received from the Government of India two additional memoranda containing important proposals by Sir James Meston as to a plan of dealing with provincial finance different from that set forth in paragraph 257 of the Joint Report These proposals involve a substantial departure from the scheme outlined in the Report, and necessarily affect some of the points discussed in the foregoing paragraphs In view of the late stage at which these proposals reached us we are not in a position to express any opinion upon them

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Section VI.—Conclusion.

85 We desire to record our special obligations to the many officers of Government who have assisted us by their expert knowledge, and by rendering available in convenient from the detailed information which it was necessary to obtain for the purpose of enabling us to conduct our enquiry.

The work falling upon the Secretary to the Committee has been unusually exacting We wish to express our thanks to Mr. J. D. V. Hodge,



ANNEXURE I.

Schedule of the recommendations of Provincial Governments regarding reservation or transfer of Provincial Subjects.

NOTE 1.—The recommendations of the provincial Governments summarised in this schedule are to be read, in the case of those made by the Governments of Madras, Bombay, the Punjab, the Central Provinces and Assam subject to the reservations stated in paragraph 43 of the Report

NOTE 2.—*Madras.*—The following general reservation applies to every item in the "List of transferred subjects" prepared by the Government of Madras, viz., that the exercise of provincial powers of taxation and legislation in all subjects, whether transferred or not, should require the sanction of the collective Government

NOTE 3.—*The Punjab.*—The recommendations of the Punjab Government will, in certain cases, be found to [illegible] ernment His Honour the Lieutenant-Governor [illegible] rticular subjects [illegible] friction between [illegible] tters arising in [illegible] d sphere should [illegible] as well as the [illegible] on

NOTE 4.—*The Central Provinces.*—The Chief Commissioner's position is stated in paragraph 43 of the Report The subjects he has specified as "least suitable for transfer" are entered in the schedule as "reserved" no entry is made in the case of other subjects

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1.—FINANCIAL WORK ON BEHALF OF GOVERNMENT OF INDIA.

(a) Income-Tax.

Name of Province.	Recommendation.	Remarks.
Bengal . . .	Reserved.	
Bombay . . .	Reserved .	Council not unanimous.
Madras . . .	Reserved.	
Punjab . . .	Reserved.	
United Provinces .	Reserved.	
Assam . . .	Reserved.	

(b) Customs.

Name of Province.	Recommendation.	Remarks.
Bengal . . .	Reserved.	
Bombay . . .	Reserved .	Council not unanimous.
Madras . . .	Reserved.	
Punjab . . .	Reserved.	
United Provinces .	Reserved.	
Assam . . .	Reserved.	

2.—APPOINTMENTS, ETC., OF PROVINCIAL SERVICES

Name of Province	Recommendation.	Remarks
Bengal	Reserved.	
Bombay	Reserved	Council not unanimous
Madras	Reserved.	
Bihar and Orissa	Transferred	Saving power intervention to Governor in Council as in paragraph 240
Punjab	Reserved	
United Provinces	Transferred	As regards provincial services, subject to the right of the Governor to protect interests of existing members
Assam	Reserved	
Central Provinces	Reserved	Except services connected with transferred subjects

3.—CRIMINAL JUSTICE

Bengal	Reserved	'Administration of the future village self-Government Bill' to be transferred this will include village benches
Bombay	Reserved	
Madras	Reserved.	
Bihar and Orissa	Reserved	Village benches non-existent
Punjab	Reserved	Village benches, appointment to transferred Staff presumably appointed by District Magistrates.
United Provinces	Reserved	Including village benches
Assam	Reserved	Village benches to be transferred eventually
Central Provinces	Reserved	

4.—POLICE, INCLUDING RAILWAY POLICE.

Bengal	Reserved	The Calcutta Alms House and other charitable institutions now administered by the Commissioner of Police, Calcutta, to be transferred The Calcutta Workhouse to be reserved Village police to be reserved
Bombay	Reserved	Including village police.
Madras	Reserved.	
Bihar and Orissa	Reserved	Including village police
Punjab	Reserved	
United Provinces	Reserved	Including village police
Assam	Reserved.	
Central Provinces	Reserved	

5.—PRISONS.

Bengal	Reserved.
Bombay	Reserved
Madras	Transferred
Bihar and Orissa	Reserved.
Punjab	Reserved.
United Provinces	Reserved.
Assam	Reserved.
Central Provinces	Reserved.

6.—CRIMINAL TRIBES.

Name of Province.	Recommendation	Remarks.
All provinces . .	Reserved.	

7.—EUROPEAN VAGRANCY.

Name of Province.	Recommendation	Remarks.
Bengal . . .	Reserved .	Mendicancy in general to be transferred.
Bombay . . .	Reserved.	
Madras . . .	Reserved.	
Bihar and Orissa . .	Reserved.	
Punjab . . .	Reserved.	
United Provinces .	Reserved.	
Assam . . .	Reserved.	
Central Provinces .	Reserved.	

8.—SEDITIOUS MEETINGS, INCITEMENTS TO CRIME.

Name of Province.	Recommendation	Remarks.
All provinces . .	Reserved.	

9.—PRESS ACT.

Name of Province.	Recommendation	Remarks.
All provinces . .	Reserved.	

10.—ARMS ACT.

Name of Province.	Recommendation	Remarks.
All provinces . .	Reserved.	

11.—POISONS.

Name of Province.	Recommendation	Remarks.
All provinces . .	Reserved.	

12.—GAMBLING.

Name of Province.	Recommendation	Remarks.
Bengal . . .	Reserved.	
Bombay . . .	Reserved.	
Madras . . .	Reserved.	
Bihar and Orissa .	Transferred.	
Punjab—		
(a) administration .	Reserved.	
(b) legislation . .	"Full Government."	
United Provinces .	Transferred.	
Assam . . .	Reserved.	
Central Provinces .	Reserved.	

13.—CINEMATOGRAPHS AND DRAMATIC PERFORMANCES.

Name of Province.	Recommendation	Remarks.
All provinces . .	Reserved.	

14.—CORONERS.

Name of Province.	Recommendation	Remarks.
Bengal . . .	Reserved.	
Bombay . . .	Reserved.	
Madras . . .	Reserved.	
United Provinces .	Transferred.	

15.—LAND REVENUE.

Name of Province.	Recommendation	Remarks.
Bengal . . .	Reserved.	
Bombay . . .	Reserved .	Council not unanimous.
Madras . . .	Reserved.	
Bihar and Orissa .	Reserved.	
Punjab . . .	Reserved.	
United Provinces .	Reserved.	
Assam . . .	Reserved.	
Central Provinces .	Reserved.	

16.—COURT OF WARDS

Name of Province	Recommendation.	Remarks
Bengal	Reserved	
Bombay	Reserved	Council not unanimous
Madras	Reserved	
Bihar and Orissa	Transferred	
Punjab	Reserved	
United Provinces	Reserved	
Assam	Reserved	
Central Provinces	Reserved	

17.—ENCUMBERED ESTATES

Name of Province	Recommendation.	Remarks
Bengal	Reserved	
Bombay	Reserved	Council not unanimous
Madras	Reserved	
Bihar and Orissa	Transferred	
Punjab	Reserved	
United Provinces	Reserved	
Assam	Reserved	
Central Provinces	Reserved	

18.—AGRICULTURE

Name of Province	Recommendation.	Remarks
Bengal	Transferred	Cinchona to be an All India subject
Bombay		Council not unanimous, but agrees that functions of local Governmen under Destructive Forests and Pests Act II of 1914 may be transferred
Madras	Reserved	
Bihar and Orissa	Transferred	
Punjab	Transferred	On condition that Governor Secretary or Head of Department is empowered to bring any matter before full Government "
United Provinces	Transferred	
Assam	Transferred	

19.—VETERINARY

Name of Province	Recommendation.	Remarks
Bengal	Transferred	
Bombay	Transferred	
Madras	Reserved	
Bihar and Orissa	Transferred	
Punjab	Transferred	On condition that Governor Secretary or Head of Department empowered to bring any matter before full Government
United Provinces	Transferred	
Assam	Transferred	

20.—FORESTS

Name of Province	Recommendation.	Remarks
Bengal	Reserved	
Bombay	Transferred	
Madras	Reserved	
Bihar and Orissa	Reserved	
Punjab	Reserved	
United Provinces	Reserved	
Assam	Reserved	
Central Provinces	Reserved	

21.—FISHERIES.

Name of Province.	Recommendation.	Remarks.
Bengal . . .	Transferred.	
Bombay . . .	Transferred.	
Madras . . .	Reserved.	
Bihar and Orissa .	Transferred.	
Punjab . . .	Transferred.	
United Provinces .	Transferred.	
Assam . . .	Transferred .	Eventually.

22.—PUBLIC WORKS, ROADS AND BUILDINGS.

Name of Province.	Recommendation.	Remarks.
Bengal . . .	Transferred.	
Bombay . . .	Transferred.	
Madras . . .	Transferred .	(1) The programme of works for execution to be subject to the control of the collective Government. (2) Works costing over R2½ lakhs to require the administrative approval of the collective Government.
Bihar and Orissa .	Transferred.	
Punjab	...	The reorganization scheme proposes that roads and buildings should be made over to local bodies. The Punjab Government considers that the small provincial department that will remain should be reserved.
United Provinces .	Transferred.	
Assam . . .	Reserved .	Except in so far as roads and buildings are transferred to the control of local bodies.

23.—TRAMWAYS, LIGHT AND FEEDER RAILWAYS.

Name of Province.	Recommendation.	Remarks.
Bengal . . .	Transferred.	
Bombay . . .	Transferred.	
Madras . . .	Reserved.	
Bihar and Orissa .	Transferred.	
Punjab . . .	Transferred.	
United Provinces .	Transferred.	
Assam . . .	Transferred.	

24.—INLAND NAVIGATION.

Name of Province.	Recommendation.	Remarks.
Bengal . . .	Reserved .	Waterways Trust, if constituted, to be an All-India subject.
Assam . . .	Reserved.	

25.—PORTS.

Name of Province.	Recommendation.	Remarks.
Bengal . . .	Reserved .	Including sanitation of ports. Waterways Trust, if constituted, to be an All-India subject.
Bombay—		
Ports of Bombay, Karachi and Aden (under Marine Department) . .	Reserved.	
'Continental ports' (under Land Revenue Department)	Transferred.	
Madras . . .	Reserved.	

26.—IRRIGATION

Name of Province	Recommendation	Remarks
Bengal—		
Major Works (productive and protective)	Reserved	
The rest	Transferred	
Bombay	Transferred	The works are under the control of the Public Works Department, the Revenue Department is concerned with the collection of irrigation revenue The Council is not unanimous as to the transfer of the functions of the Land Revenue Department in connection with irrigation
Madras	Reserved	
Bihar and Orissa	Reserved	One Member of Council would transfer minor works
Punjab—		
(a) 'Major'	Reserved	The term is not used by the Punjab Government in the technical sense in which it is known to the Irrigation Department (*vide* paragraph 45)
(b) 'Minor'	Transferred	The Executive Council to have a vote on the question whether a minor canal should be undertaken
United Provinces	Reserved	
Assam	Reserved	
Central Provinces	Reserved	

27.—DRAINAGE AND EMBANKMENTS

Name of Province	Recommendation	Remarks
Bengal	Reserved	
Madras	Reserved	
Bihar and Orissa	Reserved	One Member of Council dissents
Punjab	Transferred	New schemes to be voted on by "full Government" Irrigation Department's schemes to be a reserved subject
United Provinces	Reserved	
Assam	Reserved	

28.—EDUCATION.

Name of Province	Recommendation	Remarks
Bengal	Transferred	(a) European education to be reserved (b) Collegiate, including Calcutta University, to be reserved pending decision as to the future of the University
Bombay	Transferred	
Madras	Reserved	
Bihar and Orissa—		
(a) Primary	Transferred	*i e*, vernacular education
(b) Other	Reserved	Including reformatories

Name of Province.	Recommendation.	Remarks.
Punjab—		
(*a*) Primary and middle schools.	Transferred .	Provided conditions suggested as to Local Self-Government (item 31) are accepted.
(*b*) High Schools .	Transferred.	
(*c*) Technical and industrial schools.	Transferred .	Medical schools to go with medical college (transferred). Engineering schools to go with Public Works Department.
(*d*) University and colleges.	Transferred .	(*i*) His Honour the Lieutenant-Govnor would prefer to reserve the four Government colleges: if this is not done, he suggests that the Governor should have the power to bring questions affecting them before the "full Government." (*ii*) Questions affecting members of the Imperial Educational Service to be referred to the "full Government." (*iii*) Aitchison College, if provincialized, to be reserved.
United Provinces .	Transferred .	The Indian Educational Service to be reserved.
Assam . . .	Transferred .	Excluding collegiate.

29.—MEDICAL.

Name of Province.	Recommendation.	Remarks.
Bengal—		
Medical officers .	Reserved.	
State medical institutions.	Reserved.	
Bengal Medical Act, 1914.	Reserved.	
Medical Degrees Act, 1916.	Reserved.	
Leper asylums .	Reserved	
Lunatic asylums .	Reserved.	
Charitable hospitals and dispensaries under local bodies.	Transferred.	
Medical education .	Reserved.	
Bombay . . .	Transferred .	Including lunatic and leper asylums.
Madras . . .	Reserved.	
Bihar and Orissa .	Transferred .	Except medical schools.
Punjab . . .	Transferred .	Following matters to be dealt with by "full Government":— (1) Indian Medical Service. (2) Medical Registration Act. (3) King Edward Hospital. (4) Medical Faculty. (5) Additions to cadre of assistant and sub-assistant surgeons for institutions under Executive Council.
United Provinces .	Transferred .	Including *medical education.*
Assam . . .	Transferred .	Eventually.

30.—SANITATION

Name of Province	Recommendation	Remarks
Bengal	Transferred	Sanitation of ports and shipping to be reserved
Bombay	Transferred	
Madras	Reserved	
Bihar and Orissa	Transferred	
Punjab	Transferred	Questions concerning officers of reserved services to come before full Government "
United Provinces	Transferred	
Assam	Transferred	Eventually

31.—LOCAL SELF-GOVERNMENT

Bengal	Transferred	Including Calcutta Improvement Trust
Bombay	Transferred	Including Bombay Improvement Trust
Madras	Transferred	Following powers to be reserved to collective Government — (1) Power to suspend defaulting local bodies (2) Control of the borrowing powers of local bodies
Bihar and Orissa	Transferred	But
Punjab	Transferred	(1) all questions of taxation, (2) all proposals imposing duties on members of the reserved services, (3) all questions as to the discharge of their duties by such officers, (4) irrigation, embankments, etc , and (5) police, and possibly other matters involving questions of law and order or contact with reserved subjects, to be dealt with by the " full Government "
United Provinces	Transferred	
Assam	Transferred	

32.—FRANCHISE, ETC

Bengal	Reserved	
Madras	Reserved	
Bihar and Orissa	Reserved	
Punjab	Reserved	Not to be transferred until Commission has reported
United Provinces	Reserved	Do
Assam	Reserved	(Governor's portfolio)

33.—CIVIL JUSTICE

Bengal	Reserved	" Administration of the future village Self Government Bill " to be transferred, this includes village courts
Bombay	Reserved	

Name of Province.	Recommendation.	REMARKS.
Madras	Reserved.	
Bihar and Orissa	Reserved	Village courts non-existent. Private trusts transferred.
Punjab	Reserved	Village courts transferred, but legislative rules in regard to them to come before "full Government."
United Provinces	Reserved	Including village courts and private trusts.
Assam	Reserved	Village courts to be transferred eventually.
Central Provinces	Reserved.	

34.—REGISTRATION OF DEEDS AND DOCUMENTS.

Name of Province.	Recommendation.	REMARKS.
Bengal	Transferred	Appointments which now require the sanction of the Governor to continue to do so.
Bombay	Transferred.	
Madras	Transferred.	
Bihar and Orissa	Transferred.	
Punjab—		
Legislation	All-India.	
Administration	Transferred	Questions of discipline affecting reserved services to come before "full Government."
United Provinces	Transferred.	
Assam	Transferred	Eventually.

35.—EXCISE.

Name of Province.	Recommendation.	REMARKS.
Bengal	Transferred.	
Bombay	Transferred	Subject to the remark that the amalgamated service dealing with salt, customs and excise shouldb be reserved.
Madras	Reserved.	
Bihar and Orissa	Transferred.	
Punjab	Reserved	Ministers too be associated with Executive Council, and all proposals for legislation involving penal clauses or taxation to come before "full Government."
United Provinces	Transferred.	
Assam	Reserved.	

36.—OPIUM.

Name of Province.	Recommendation.	REMARKS.
Bengal	Reserved.	
Bombay	Transferred.	
Madras	Reserved.	
Punjab	Reserved.	
Assam	Reserved.	

37.—SCHEDULED DISTRICTS.

Name of Province.	Recommendation.	REMARKS.
Bengal	Reserved.	
Bombay	Reserved.	
Madras	Reserved.	
Bihar and Orissa	...	Special proposals, *vide* para. 50 of the Report.

37.—SCHEDULED DISTRICTS—*concld*

Name of Province	Recommendation	REMARKS
Punjab	Reserved	
United Provinces	Reserved	
Assam		Special proposals, *vide* para 49 of the Report
Central Provinces	Reserved	

38.—LAND ACQUISITION

Bengal	Reserved	
Bombay	Reserved	Council not unanimous
Madras	Reserved	
Bihar and Orissa	Reserved	
Punjab	Reserved	
United Provinces	Reserved	
Assam	Reserved	

39.—FACTORIES

Bengal	Reserved
Bombay	Transferred
Madras	Reserved
Bihar and Orissa	Reserved
Punjab	Reserved
United Provinces	Reserved
Assam	Reserved
Central Provinces	Reserved

40.—MINES

Bengal	Reserved
Madras	Reserved
Bihar and Orissa	Reserved
United Provinces	Reserved
Assam	Reserved
Central Provinces	Reserved

41.—EXPLOSIVES

Bengal	Reserved
Bombay	Transferred
Madras	Reserved
Bihar and Orissa	Reserved
Punjab	Reserved
United Provinces	Reserved
Assam	Reserved
Central Provinces	Reserved

42.—PETROLEUM

Bengal	Reserved
Bombay	Transferred
Madras	Reserved
Bihar and Orissa	Reserved
Punjab	Reserved
United Provinces	Reserved
Assam	Reserved
Central Provinces	Reserved

43.—DEVELOPMENT OF ARTS, CRAFTS AND LOCAL INDUSTRIES.

Name of Province.	Recommendation.	REMARKS.
Bengal . . .	Reserved.	
Bombay . . .	Transferred.	
Madras . . .	Reserved.	
Bihar and Orissa .	Transferred .	*i.e.*, "cottage industries."
Punjab . . .	...	Judgment suspended pending examination of Industrial Commission's report.
United Provinces .	Transferred .	"*Industries*" *substituted for* "*local* industries." It is their development only which is to be transferred.
Assam . . .	Transferred.	
Central Provinces .	Reserved.	

44.—CO-OPERATIVE CREDIT.

Name of Province.	Recommendation.	REMARKS.
Bengal . . .	Transferred.	
Bombay . . .	Transferred.	
Madras . .	Transferred.	
Bihar and Orissa .	Transferred.	
Punjab . . .	Transferred .	On condition that Governor, Secretary or Head of Department empowered to bring any matter before "full Government."
United Provinces .	Transferred.	
Assam . . .	Transferred .	Eventually.

45.—BUSINESS CONCERNS.

Name of Province.	Recommendation.	REMARKS.
Bengal . . .	Reserved.	
Bombay . . .	Transferred.	
Madras . . .	Reserved .	*Registration of assurances and companies to be transferred.*
Bihar and Orissa .	Reserved.	
Punjab . . .	Reserved.	
United Provinces .	Reserved.	
Assam . . .	Reserved.	

46.—GOVERNMENT PRESS.

Name of Province.	Recommendation.	REMARKS.
Bengal . . .	Reserved.	
Bombay . . .	Transferred.	
Madras . . .	Reserved.	
Bihar and Orissa .	Reserved.	
Punjab . . .	Reserved.	
United Provinces .	Transferred.	
Assam . . .	Reserved.	

47.—REGISTRATION OF BIRTHS, ETC.

Name of Province.	Recommendation.	REMARKS.
Bengal . . .	Transferred .	General superintendence to be reserved.
Bombay . . .	Transferred.	
Madras . . .	Reserved.	
Bihar and Orissa .	Reserved.	
Punjab—		
(*a*) By local bodies .	...	Part of Local Self-Government.
(*b*) By village watchmen.	...	To be dealt with by "full Government."
(c) By chaplains, etc.	Reserved.	
United Provinces .	Transferred.	
Assam . . .	Transferred.	Eventually.

48.—EMIGRATION

Name of Province	Recommendation	Remarks
Bengal	Reserved	Both to colonies and between provinces
Madras	Reserved	
Bihar and Orissa	Reserved	
Punjab	Reserved	
United Provinces	Reserved	
Assam	Reserved	

49.—CRUELTY TO ANIMALS

Name of Province	Recommendation	Remarks
Bengal	Transferred	
Madras	Reserved	
Bihar and Orissa	Transferred	
Punjab	Reserved	
United Povinces	Reserved	
Assam	Reserved	

50.—PROTECTION OF WILD BIRDS AND ANIMALS

Name of Province	Recommendation	Remarks
Bengal	Reserved	
Bombay	Transferred	
Madras	Reserved	
Bihar and Orissa	Transferred	
Punjab	Transferred	
United Provinces	Transferred	
Assam	Reserved	

51.—ESCHEATS

Name of Province	Recommendation	Remarks
All Provinces	Reserved	

52.—CHARITABLE ENDOWMENTS

Name of Province	Recommendation	Remarks
Madras	Transferred	As apart from religious endowments
Bihar and Orissa	Transferred	
Punjab	Transferred	
United Provinces	Transferred	
Assam	Transferred	Eventually

53.—MOTOR VEHICLES

Name of Province	Recommendation	Remarks
Bengal	Reserved	
Bombay	Reserved	
Madras	Reserved	
Bihar and Orissa	Transferred	
Punjab	Reserved	
United Provinces	Transferred	
Assam	Reserved	

54.—ARCHÆOLOGY

Name of Province	Recommendation	Remarks
Bengal	All India	
Bombay	Transferred	
Madras	Reserved	
Bihar and Orissa	Reserved	
Punjab	Reserved	
United Provinces	Reserved	

ANNEXURE II.

Memorandum for the Subjects Committee.

This memorandum is an attempt to state the views of the Government of India upon the general principles involved in the questions which the Subjects Committee will have to consider. On the basis of these views the Government of India are now dealing separately with cases of the different departments, supplementary memoranda upon which will be transmitted to the Committee. The Government of India hope to discuss further with the Committee the views now put forward after the opinions of the provinces have been received. In this connection the Government of India would find it of great assistance to them if they could receive from the Committee statements showing the substance of the material on which the Committee propose to base their own conclusions.

2. The first basic fact with which the Government of India start is that both the Government of India and the provincial Governments in India are subordinate governments, and the Indian and provincial legislatures are subordinate legislatures. The Imperial * Government and Parliament are alone supreme. A practice of non-intervention may gradually grow up, as it did in the case of the Dominions; but this is not the position at present: and the governments and legislatures in India do not possess uncontrolled power in any respect whatsoever.

3. The second basic fact is that legislative and executive authority must go hand in hand. If a Government, central or provincial, has power to legislate on any matter, it must have a corresponding power to carry out its laws. Wherever there is an overriding power of legislation, there must be a corresponding overriding executive power, with unquestioned capacity to make the overriding legislation effective.

4. The third basic fact is that the Government of India are responsible to the Imperial Government and Parliament for the administration of India. They cannot be divested of that responsibility except by the consent of the Imperial Government and Parliament; and so long as that responsibility attaches to them, they must have the power to enforce it; and such power must be both legislative and executive.

5. Assuming these axioms, the problem before us is to divide the whole field of Indian administration into two classes, central and provincial, in such a way that the Government of India will be directly responsible for the administration of the first, while in regard to the second they will retain only a general responsibility to be exercised under conditions to be discussed later on.

* NOTE.—The Government of India suggest that the term Imperial should be served in this discussion for His Majesty's Government and Parliament.

6 The Government of India cannot at present deal with the further question whether any provincial subject is to be administered by the Governor in Council or by Ministers That is a matter to be considered in the provinces first and by the Government of India only when they have received the views of the provinces Conditions will vary between provinces, and for this reason alone apart from other considerations it is not practical for the Government of India at this stage to deal with the division of provincial subjects into the categories of reserved and transferred Their immediate object is merely to arrive at the principles which should regulate the classification of functions into central and provincial

7 There are certain subjects which are at present under the direct administration of the Government of India The Government of India maintain separate staffs for their administration, and the provincial Governments have no share in it The category is easily recognisable, and for the most part there will not be much room for doubt as to the subjects to be included in it At the other end of the line are matters of predominantly local interest which however much conditions may vary between provinces will generally speaking be recognised as proper subjects for provincialization

8 Between these extreme categories however lies a large indeterminate field which requires further examination before the principles determining its classification can be settled It comprises all the matters in which the Government of India at present retain ultimate control, legislative and administrative but in practice share the actual administration in varying degrees with the provincial Governments In many cases the extent of delegation practised is already very wide The criterion which the Government of India apply to these is whether in any given case the provincial Governments are to be strictly the agents of the Government of India or are to have (subject to what is said below as to the reservation of powers of intervention) acknowledged authority of their own In applying this criterion the main determining factor will be not the degree of delegation already practised which may depend on mere convenience but the consideration whether the interests of *India as a whole (or at all events interests larger than those of one province)* or on the other hand the interests of the province essentially preponderate The point is that legation to an agent may be already extensive but that circumstance should not obscure the fact of agency or lead to the agent being regarded as having inherent powers of his own

9 Applying this principle the Government of India hold that where extra provincial interests predominate the subject should be treated as central This category as already noted also includes matters which the central Government administer directly by means of their own staff But confining themselves in this paragraph to cases in which central subjects are partly administered by provincial Governments acting as agents for the central Government the Government of India wish to emphasize two points They propose to examine existing conditions with a view to relaxing as far as possible the central control over the

agency and to getting rid of any unnecessary limitations on the agent's discretion. They distinguish this process as one of decentralization, not to be confused with the larger purpose of devolution. At the same time the Government of India think it should be recognized that it is within the principal's power to restrict the agency or even to withdraw it altogether, substituting for it direct administration by the central Government; and that if and when it is proposed to transfer the functions of the provincial agency to the hands of Ministers this particular question will need careful reconsideration.

10. On the other hand, all subjects in which the interests of the provinces essentially predominate should be provincial; and in respect of these the provincial Governments will have acknowledged authority of their own. At the same time, as is recognised in the Report, the Government of India's responsibilities to Parliament necessitate the retention of some powers of intervention in provincial subjects. The Government of India propose to state their views upon the question of the grounds on which and methods by which such powers should be secured and exercised, in the hope that they may be of assistance to the Committee.

11. Among provincial subjects some will be transferred. Taking the case of these first the Government of India think that the exercise of the central Government's power to intervene in provincial subjects should be specifically restricted to the following purposes:—

(*i*) to safeguard the administration of Government of India subjects;

(*ii*) to secure uniformity of legislation where such legislation is considered desirable in the interests of India or of more than one province;

(*iii*) to safeguard the public services to an extent which will be further determined subsequently;

(*iv*) to decide questions which affect more than one province.

So far as legislation is concerned the Government of India think that the exercise of the legislative powers of the central Government should be by convention restricted in the manner proposed in paragraph 212, to the abovenamed grounds.

So far as administration is concerned, section 45 should be so amended as to empower the Secretary of State to make rules restricting the exercise of the central Government's powers of administrative control over provincial Governments in transferred subjects to the same specified grounds. This proposal is subject to the following qualification. In the past a very important element in the administrative control exercised by the central Government has been the element of financial control. The Government of India have not yet concluded their examination of the character and extent of the control to which public expenditure in the provinces should under the new arrangements be subjected, and with this aspect of the question they will deal separately. Their proposals in this paragraph should be regarded as relating to control which is not based on financial considerations.

12. A work may be added as to the methods by which the central Government should intervene when necessary in the case of transferred

subjects A suggestion which seems well worth consideration has been made that in such cases control by the central Government may be better exercised by the Governor acting under the central Government's orders, and enforced in the last resort by resumption of the transferred subject, than by the direct interference of the central Government in the form of orders addressed to the provincial Government, as would be the appropriate course in the case of reserved subjects

13 Coming now to the more difficult question of the grounds justifying intervention in the case of reserved subjects, which is referred to in paragraphs 213 and 292 of the Report, the Government of India accept the proposition that the justification for relaxing control which exists in respect of transferred subjects is in the case of reserved subjects lacking They take note also of the possibility that public opinion may be critical of any general relaxation of their authority over official subordinates At the same time they consider that the new situation requires greater relaxation of control than is suggested by the expression "getting rid of interference in minor matters which might very well be left to the decision of the authority which is most closely acquainted with the facts" (paragraph 213)

In coming to this conclusion they take into account first the changed character of the provincial Governments and the more representative character of provincial Councils They also note that, so far as financial considerations have entered into the control practised in the past when the provinces have separate revenues the main motive for interference will disappear, and in so far as the expenditure codes are curtailed or abolished (upon which question as already indicated they have not yet been in a position to formulate their proposals) the ordinary everyday means of exercising control will also vanish Above all they take account of the new situation in respect of legislation They accept the proposal made in paragraph 212 of the Report that in all provincial subjects the Government of India will by convention not legislate except on specified grounds which may be taken as those already set out in paragraph 11 above They also take it that on all subjects, whether provincial or not, provincial legislatures will retain their existing power of legislation subject only to such statutory restraints as it may be decided to retain or to impose This will involve an amendment of section 79 of the Government of India Act, 1915, which will in future require the previous sanction of the Governor General to legislation by a provincial Council which is not purely on a provincial subject There will henceforth be no control over provincial legislation exercised by the Government of India in the form of purely executive orders

For all these reasons the Government of India look forward in future to very different relations between the central and provincial Governments, even in reserved subjects, from those which have obtained in the past

14 Nevertheless, as they have already said, the Government of India accept the principle laid down in paragraph 213 that an official Government which is not subject to popular control cannot properly be legally exempted from superior official control Bearing in mind the further

fundamental principle that saving its responsibility to Parliament the central Government must retain indisputable authority, in essential matters, and also the practical danger that the specification of certain grounds for the exercise of powers of control may be taken to imply the exclusion of others, they hold that it would be unwise to lay down any specific limitations upon their legal powers of interference with provincial Governments in reserved subjects. In respect of these therefore they propose no amendment of section 45 of the Government of India Act.

At the same time the Committee may find it useful to have some indication of the extent to which the Government of India consider that such control will generally be exercised in future; and for this purpose the Government of India take first the four grounds already mentioned in paragraph 11 in the case of transferred subjects. In addition they think that intervention would be required in cases where it was necessary to enforce any standing or special orders of His Majesty's Government conveyed by the Secretary of State, or in exceptional cases, where the Government of India considered that the interests of good government were seriously endangered. But in suggesting these grounds by way of explanation the Government of India wish to make it clear that they do not intend that their specification of certain matters should be made the basis of any formal limitation of their legal powers.

15. In cases where the Governor in Council exercises his powers of intervention in relation to transferred subjects under section 240 of the Report the Government of India think that the central Government should have the same powers of control as if the Governor in Council's decision had been taken in a reserved subject.

16. A minor point worth mention is that the Government of India contemplate that the central Government should have an unquestioned power, to call for any information, statistical or otherwise, and in any form they desire, from provincial Governments, whether such information relates to a transferred or to a reserved subject, and that section 45 of the Act should, if necessary, be amended so as to place their powers in this respect beyond question. It may be covered by their proposals in paragraph 11 (*i*) above read with paragraph 291 of the Report.

ANNEXURE III.

Supplementary memorandum for the Subjects Committee.

The Government of India have taken into further consideration the questions which arise in connexion with the proposed demarcation of the field of provincial administration, and have recorded the following conclusions —

(1) They recognize that those subjects or departments which are to be transferred to Ministers come within the field of provincial administration In respect of these the Government of India have stated their intentions in paragraph 11 of their memorandum of November 29, 1918

(2) At the other end of the scale they recognize that there are certain subjects which cannot go into the field of provincial administration, but must be administered centrally

(3) As regards the treatment of subjects lying in between these categories the Government of India think that—

(i) the subjects which appear in the provincial budget should be described as the subjects which a province administers,

(ii) there should in respect of these be no statutory restriction of the Government of India's power of superintendence, direction and control,

(iii) in respect of these same subjects the Government of India will undertake a formal and systematic scheme of devolution of their authority, such scheme to be compatible with the exercise of their control in matters which they regard as essential to good government,

(iv) the Government of India do not contemplate that the administration of such subjects should become amenable to the control of the legislature otherwise than by their formal transfer at the date of the periodic commission, and they recognize that in the exercise of their control over such subjects the Government of India should have due regard to the purposes of the new Government of India Act, as they anticipate that these will be declared in the preamble

February 19, 1919

ANNEXURE IV.

The Public services under reforms.

The *Report* deals in various places with the position of the public services (paragraphs 128, 156, 240, 259, 318—327), but two passages are of outstanding importance. On the one hand it is laid down (paragraph 259) that there is to be no duplication of the services:—"To require Ministers to inaugurate new services for their own departments would be to saddle them with difficulties that would doom the experiment to failure." On the other hand, it is declared (paragraph 325) that "any public servant, whatever, the Government under which he is employed, shall be properly supported and protected in the legitimate exercise of his functions"; and the Government of India and the Governor in Council are to have unimpaired power to "secure these essential requirements." The Government of India accept these propositions. They take it that the machinery of the public service, as it exists to-day, is to be used by Ministers, and the service is to be given adequate protection in its new situation. Means must be found of fulfilling these requirements.

2. Hitherto the regulation of the public services has been to a great extent uncodified, or codified only by executive orders. The position will be altered now, with the public services coming, in an increasing measure, under popular control. It will be only fair both to ministers and to public servants that they should be supported by a clear regulation of their formal relations to each other. And it is eminently desirable that they should find this regulation established from the outset of the new conditions. Moreover, there ought not to be one law for public servants working under Ministers, and another for those who remain under the official part of the Government. So far as may be, the public employé should find himself under a similar régime in whatever branch of the administration he may serve. So also the claims of Ministers upon the public service and their duties towards it should be closely comparable with those of the official members of the Government. The whole machinery ought to be arranged so that the transfer of a department from one part of the Government to the other should cause the least possible dislocation, or change in the conditions of their service, among the permanent officials employed in the department. The most hopeful way of arriving at the basis of the necessary law and rules seems to be to consider in relation to each class of service how the operations which are necessarily involved in running a service ought in future to be performed when the new constitution is in operation.

Classification.

3. The Government of India think that all public servants working in the provincial field of administration should be classified in three

divisions, Indian, provincial and subordinate Such a step has invariably been found necessary in the Dominions, it seems necessary in India for the purpose of distributing authority in future, and it has the advantage of enabling greater simplicity to be introduced into the rules or regulations

4 The chief criterion will be the appointing authority Broadly speaking, the Indian division would include services for which the Secretary to State recruits the whole or a considerable part of the members—the services, in fact in which it is desired to retain a definite proportion of Europeans or Indians educated in Europe The provincial division would embrace posts with duties of a responsible character and not of a merely clerical type for which the local Government ordinarily recruits Posts for which the Government of India at present recruit could be treated as Indian or provincial according to the nature of their duties All subordinate and clerical posts would come into the third division It will probably be found that the classification will entail considerable changes in existing nomenclature Again a number of grades do not now receive provincial status although their officers are recruited on uniform qualifications for the whole province and may be liable for service in any part of the province From this point of view such classes as the naib tahsildar the sub assistant surgeon and the like may be conveniently placed *ad hoc* in the provincial division Similarly all miscellaneous posts not being of a purely subordinate character which are not at present in either the Indian or provincial category would be treated as belonging to one or the other if they are of similar status or recruited for in a similar way, to those branches respectively The third division would take in all appointments of lower than provincial status They would usually be the posts which are filled departmentally or by district officials without reference to a central authority

5 It is probable however that in all provinces there would be certain posts of importance which would not conveniently fall into either the Indian or the provincial category Some of the technical educational posts are a case in point For these it may be necessary following the usual Dominion practice to create a separate professional division

6 The proposed classification should at present be undertaken only, to use the phrase of the report (paragraph 238) in the "field of provincial administration" The division into Indian and provincial classes might not be easy in services like the railways post office or customs, and it is not necessary for present purposes though power may suitably be taken to make it when the necessity arises

7 The dominant considerations are that Ministers coming new to office should be provided with an efficient staff and not have to rely on what they can get, and that it is of the utmost importance to India to have in the highest services which are to set a model to the rest an Indian as well as a European element on which the seal of the existing system has been definitely impressed The Government of India think that—

(1) recruitment whether in England or India for the India services should be according to the methods laid down in statutory orders by the Secretary of State,

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(1) recruitment whether in England or India for the India services should be according to the methods laid down in statutory orders by the Secretary of State,

(2) all persons recruited to the India services whether in England or in India (whether by examination, promotion or direct appointment) should be appointed by the Secretary of State.

PAY.

8. (a) *Rates of pay.*—After weighing the opposing considerations, the Government of India think that, if the India services are to be kept together on more or less one plan and the Secretary of State is to feel his responsibility for them, it is practically necessary that he should fix their rates of pay.

9. (b) *New appointments.*—The Government of India think that the addition of any new post to the India services should require the sanction of the Secretary of State.

10. It is, however, necessary to prevent the intention of the last proposal from being defeated by the device of creating appointments similar in purpose to those ordinarily filled by the India services, but keeping them technically outside the cadre. For this purpose a proviso on the following lines seems needed:—

Every new permanent post created in the provinces must be added to the cadre of the service to which its duties most closely correspond.

11. (c) *Temporary appointments.*—The Government of India consider that local Governments should have power to sanction, without any limit of pay, any temporary additions to the cadre of India services, either up to a limit of two years' duration, or else without any such limit, on the understanding that the audit will check any evasions of the rule about permanent posts.

ALLOWANCES.

12. These are known by several titles, but can probably all be brought within a few generic names—acting, exchange compensation, duty, local, travelling and personal and honoraria. Acting allowances are included in salary and are part of the emoluments attaching to a particular office. The introduction of a time-scale will to a great extent do away with them; but where they are still required the Government of India think that the Secretary of State should lay down the rules under which they may be granted. The Government of India hope that these may be simplified and that it will not be necessary to keep all the existing bases of calculation. The same authority should lay down the basis on which exchange compensation may be granted and details would be settled by local Governments.

13. All other allowances, however, are clearly distinct from pay, and ought to be given for reasons which can only be fully known to the local Governments; and the Government of India propose that, subject to very general directions by the Secretary of State, the grant should left to them. Thus the Secretary of State would lay it down that travelling allowance was not to be a source of profit; that local allowances in all their forms should bear some reasonable relation to the extra expenses of the locality; and that duty allowances, deputation allowances and personal allowances should bear some reasonable relation to the officer's pay.

LEAVE

14 Leave is one of the great amenities of the services, and ought to be maintained on generally uniform lines but it has long been recognized that the leave code is needlessly rigid and restrictive and that greater latitude is desirable The Government of India think that the Secretary of State should determine (a) the total amount of leave of every kind admissible, (b) the scale of allowances admissible for each, (c) the maximum to be taken at any one time, (d) the minimum interval between two periods (e) the terms of commutation of one kind for another, and that within these limits all leave questions should be determined by local Governments

FOREIGN SERVICE

15 The only matters in which it seems necessary for the Secretary of State to frame fundamental regulations are in regard to contributions to leave and pension by an officer on foreign service and the calculation for purposes of subsequent leave of his foreign service pay All other matters should be left to local Governments

PENSIONS AND SUPERANNUATION

16 The Government of India think that the age of superannuation and the scale of pensions for the India services should be fixed by statutory orders of the Secretary of State made under the new Government of India Bill

ADMINISTRATION AND DISCIPLINE

17 These appear to be all the matters connected with India services for which it is possible to make provision by rule In all these cases where the local Government has been spoken of the authority will be that of the Governor in Council in the case of reserved departments, and that of the Governor acting with Ministers in the case of the transferred services But there remain to be still considered the day to day matters of administration which raise the question of the Governor's responsibility in all service questions

While they plainly realize the difficulties involved the Government of India think that to give any formal option of serving or declining to serve under Ministers at the outset seems unwise They prefer to abide by the ordinary rule that a public servant is required to fulfil any duty imposed upon him It is however, necessary to face the possibility that difficulties of various kinds may arise, and to consider how far these can be mitigated and when they get beyond mitigation how they can be disposed of

In all matters, both of ordinary administration and of discipline, where no rules can afford immunity, the task of making the new arrangements a success must fall largely on the Governor The Government of India consider that this duty should be definitely and formally laid upon the Governor, and that his role as protector of the public services should be known and recognised both by Ministers and the

services. They suggest, therefore, that the matter should be incorporated in the regular instructions to Governors, and that a declaration to the same effect should be made in the course of presenting the reforms scheme to Parliament. The Governor will have every opportunity of watching the situation. He may be able to remove trouble by a few words of advice or persuasion. If the difficulty is acute or widespread, he may have to investigate it with the help of the joint advice of his Council and Ministers. But the Government of India think that the Governor in Council should not be brought in as a formal agency of arbitration in the grievances of public servants. Such a course, they fear, would generate difficulties between Ministers and the Executive Council.

18. But in case the Governor's intervention fails, it seems necessary to provide a final safeguard: and the Government of India think that, though no officer should have the option to decline to serve under the new conditions, they should have power at their discretion to grant any officer of the existing establishment for adequate reason permission to retire on proportionate pension. If the Government of India refused the application an appeal would lie to the Secretary of State. In the case of any disciplinary orders passed by Ministers which affected an officer's emoluments or pension there seems no choice but to allow a direct appeal to the Government of India and, if need be, to the Secretary of State. No officer of the India services should be dismissed without the orders of the Secretary of State, and all existing rights of appeal should be maintained.

19. The Government of India conclude that in two respects the Report cannot be literally translated into practice. In paragraphs 240 and 325 the protection of the interests of the public services is made the duty of the Governor in Executive Council. This, it is feared, would defeat the object which the Report intends to secure; for the work of the public services cannot be formally made a reserved subject, and any less drastic measure of general protection would inevitably lead to friction between the two parts of the Government. Again, in the same paragraphs and in paragraphs 156 and 259, expressions are used which will be read as promising detailed support and protection to a public servant in the discharge of his duties. This, however, seems to involve too frequent intervention for working purposes. The Government of India think that all that can safely be guaranteed is in the last resort a right of retirement on fair terms, a generous right of appeal in clearly defined circumstances, and the steady influence of a vigilant Governor in the direction of harmonious working and good feeling. They think it necessary to make the position clear in this respect both to the Secretary of State and to the services.

20. The Government of India will now briefly review the proposed position as regards the India services. The basic idea is that the structure of the service, its duties and the general conditions of its employment should remain as far as possible untouched by political changes, at all events until the advent of the first statutory commission. When a Minister is placed in charge of a transferred department he will take it over as a going concern with its staff intact. The Indianization of the

services is an entirely separate matter and will be regulated in accordance with the general policy prescribed by the Secretary of State. The actual recruits, whether European or Indian, and in whatsoever proportion, will come into a service regulated on uniform lines and as little concerned with political controversy as possible. As in the past, rules of conduct should be maintained for all public servants, however employed, under standing orders of the Secretary of State. The services will be required to show the same diligence and fidelity to Ministers as to the official part of the local Government. The general conditions of their service will continue to be ordered by the service regulations (or by any special contract of recruitment), no difference being made wherever they are employed. And they will be amenable to the Minister's orders and discipline just as they will be in a reserved department to the orders and discipline of the Governor in Council. On the other hand, while Ministers will be supported in requiring their staff to carry out their policy, their employees will be protected as now against arbitrary or unjust treatment. To this end they will be given reasonable access to the authority by which they were recruited and they may not be dismissed without at least the order of that authority—a rule universally accepted at present. But the power of intervension between them the public servants under their control should be kept down to the minimum and the right of appeal from Ministers should be as little in evidence as possible. Appeals should lie only where emoluments or pensions are affected, but where they do lie they should lie up to the Secretary of State.

21. It will frequently occur that a public servant will have duties in both a reserved and a transferred department; the district officer will be the most prominent instance of this type. It will make for simplicity and avoid improper conflict of jurisdiction if for purposes of posting, promotion and discipline such officers are kept entirely under the control of that part of the Government which is concerned with the budget head from which their pay is met. It may have to be arranged that Ministers will contribute to the emoluments of officers partly employed under them in a ratio to be fixed by the Governor (ultimately by rule) and similarly to their pensions on retirement. On the side of their work which concerns the transferred departments, such officers will have to take and carry out the directions of Ministers exactly as if they were whole time officers in those departments. But they cannot be subjected to the discipline of two different authorities, and if either part of the Government is dissatisfied with the execution of its orders there seems no other course than for it to represent the matter to the Governor. It will be one of the most important duties of the Governor to deal with a delicate situation of this kind.

PROVINCIAL SERVICES.

22. It is recognized that the time must come, and may come soon, when Ministers will wish to take the provincial services of their departments entirely into their own hands, and to regulate their recruitment, pay, pensions, etc. The Government of India think that they should not

do so until they have put these matters on a legal basis by legislation. They suggest that such legislation may reasonably be expected:—

(a) to secure selection, over the widest possible field, on merits and qualifications, and to reduce the risks of nepotism;

(b) to ensure efficient training for the higher and more responsible duties;

(c) to guarantee discipline and integrity on the part of the employees; and

(d) to provide adequate pay, security of tenure, and satisfactory conditions of work in regard to such matters as pensions, promotion, and leave.

But pending the passage of such legislation, they consider that the determination of the conditions of the provincial service even in transferred departments must be left in the hands of the Governor in Council.

Recruitment.

23. The Government of India think that all existing rules for recruitment should be maintained unless altered by the Governor in Council. The requirements of different services differ, and it will not be possible to establish any uniform system. But the aim should be to eliminate the element of patronage, and to establish a system of appointment by examination before or after selection, or, where appointments are made direct, to set up some external authority for the purpose of advising. The actual appointment must in any case be made by the local Government, by the Governor in Council in the case of reserved subjects and by the Governor on the advice of Ministers in transferred subjects.

Pay.

F. D. Despatch No. 233, dated the 31st October 1918.

24. The proposal which holds the field is that the Secretary of State's sanction should not be required to any new appointment or the raising of the pay of any appointment above Rs. 1,450, outside of certain scheduled services which would closely correspond with the India services contemplated in this note. That limit would have the effect of removing from the Secretary of State's cognizance practically all questions of the pay of appointments in the provincial services. But on grounds of expediency the Government of India think that their own sanction, though not that of the Secretary of State, should be required in the case of posts on Rs. 1,000, the rate suggested for selection grades by the Islington Commission.

25. The only other limitation which it seems necessary to consider is the limit of cost of service reorganizations. At present if the additional cost exceeds Rs. 25,000 the Government of India's sanction is required, and if it exceeds Rs. 50,000 the case must go to the Secretary of State. It has been proposed to give local Governments freedom of action up to Rs. 5,00,000 a limit sufficiently high to provide for all reasonable reorganizations of the most costly services. On one minor point it has hitherto been thought necessary to retain the Government of

publicity has not been given. But it cannot, as a Department, overrule either a local Government or another Department of the central authority. Stress is laid upon this statement of fact because it has an important bearing on certain proposals which are made below regarding financial control in the provinces. If the central Finance Department has to combat unnecessary or extravagant outlay, its success depends upon the support of the Governor-General in Council. In questioning expenditure which is improper rather than excessive it can always demand a reference to the Secretary of State under the standing order which requires his sanction to charges which are " of an unusual nature or devoted to objects outside the ordinary work of administration." This defence, however, is rare, and the real strength of financial control lies in the ability of the Finance Department to ask the Governor-General to take any proposal for expenditure into consideration, if necessary, in full Council. The procedure has worked well, and no change in it is now recommended. As regards the functions of the Finance Department in the matter of excesses over budget grants and reappropriation of savings for other expenditure, the Department has to assume a position which in other countries is taken up by the legislature itself. This is inevitable under the present constitution and it is rendered effective by the general official training and traditions of financial propriety. Here also no alteration in our existing methods is proposed.

(h) Control over provincial expenditure.

13. Thus far the memorandum has dealt entirely with central receipts and expenditure. It has now to discuss the relations between the central Finance Department and the provinces. The mainspring of control over provincial expenditure lies in the orders of the Secretary of State to which allusion has already been made. Under the general standing orders the sanction of the Secretary of State is required before any new post is created which would ordinarily be filled by a gazetted English officer; before any post is created on pay of over R800 a month; before any honorarium can be given to a public servant exceeding R1,000. No grants of land may be made except on special conditions; no charitable grants exceeding R10,000 a year are permissible; no motor-cars may be purchased for public business; and so on. These are some of the more general orders, and give no index to the multiplicity of directions in the various codes. There are other restrictions which the Government of India are instructed by the Secretary of State to impose upon provinces; without the central Government's permission, they may not undertake fresh taxation, they may not alter the rate of discount upon the sale of stamps, they may not raise a loan, they may not delegate their own powers to any subordinate authority, and so on. All these regulations give the Finance Department an infinite power of putting its finger into provincial affairs. A provincial project has to come to the Finance Department under one of these many orders; that department sends it to the administrative department concerned, and asks its advice on the necessity for the projected outlay. Hence follow delays, further inquiries, and much vexation to the province which has been anxious

to get the business pushed through. Much of this is inevitable so long as financial sanction is used as the gateway to administrative control. There used to be sound reason behind the procedure in the absence of any popular opinion to influence official schemes and the honest determination of the Government of India to look at every project of expenditure from the point of view of the taxpayer. With the growing strength of public criticism and the increasing influence of legislative councils this attitude may well be modified. The Government of India have recently asked for wide relaxations of the Secretary of State's authority, but a more radical remedy seems desirable and the Report has shown where it is to be sought for.

(i) *Accounts and audit*

14. On the fourth head mentioned at the outset of this memorandum, the Auditor General Mr. M. F. Gauntlett has been good enough to prepare a separate note which accompanies this paper. It is unnecessary for the Government of India to do more than give Mr. Gauntlett's proposals their general endorsement; there are indeed certain details upon which they must reserve judgment. They accept his description of his ideals for the future and of the methods of working towards them. The step which the Government of India regard as an essential preliminary to any change is that the Auditor General should be made a statutory officer and that the Bill, or the rules made under it and presented to Parliament, should confer statutory powers upon him and his audit officers. The separation from the accounts offices of currency work and other incidents of general finance is on the merits desirable, and can be worked out at leisure. The more responsible auditors are already over worked. A good deal of their labour can be abolished by simplifying the codes and possibly also the form of accounts; but on the other hand a far greater degree of responsibility will be laid upon them if a more progressive system of audit is accepted, for a larger strain will be imposed upon their discretion and judgment and less upon their mechanical industry. It is also most advisable that the superior audit officers should be able to move about and see for themselves the working of the establishments whose accounts they inspect. Further examination of this subject, however, will have to be made before definite proposals can be laid before the Secretary of State, and it may be that the Committee will be satisfied by an assurance from the Government of India that the matter will be pursued. Meanwhile the audit should be under the independent control of the Auditor General and the accounts under the central control of the Government of India.

II.—The existing system (provincial)

15. In the provinces the Finance Department is a microcosm of the central finance organization. Its powers under a council government cannot be confidently discussed in this memorandum, as the rules which a Governor makes for the conduct of his executive business do not re-

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II.—The existing system (provincial)

15. In the provinces the Finance Department is a [illegible] of the central [illegible] organisation. Its powers under a general grant [illegible] can at best [illegible] be [illegible] used in the [illegible] as the [illegible] a [illegible] takes for the [illegible] of his executive [illegible]

quire the assent of the Government of India. The Committee, however, will easily elicit the procedure in evidence. General speaking, the control of the provincial finance department is acknowledged in theory; but in practice its strength varies greatly with the disposition of the executive government, and depends largely upon personal influence and the amount of backing received from the head of the province. In the *quasi*-commercial branches of the administration, particularly irrigation, it is believed that the financial control and the observance of strict economy are almost entirely at the discretion of the departmental officials. Other branches are more closely watched, but the power of the Finance Secretary to a local Government is far from always being as definite as it ought to be. This is especially the case in connection with excesses over budget grants and the unduly wide liberty of reappropriating funds from one grant to another and entirely separate purpose. There is also a tendency for the spending departments to budget for expenditure of which the details have not been presented to the Finance Department for the necessary criticism. In all these respects the Government of India apprehend that the system will require to be tightened up before the introduction of the new régime.

III.—The Reforms Proposals.

16. It is now time to turn to the changes of system advised in the Report. These are based upon the intention of "giving the provinces the largest measure of financial independence of the Government of India which is compatible with the due discharge by the latter of its own responsibilities." The Report proposes to approach this independence by two methods: (*a*) radical changes in the basis of the provincial settlements (paragraph 201), and (*b*) the relaxation of the powers of control (paragraph 292) which vest in the Secretary of State. Under the first head it is proposed to abandon the system by which a province is given just enough for its needs, while the central authority becomes, so to speak, the residuary legatee of all the revenues. In place of this the central services will have adequate resources secured for them and all the other revenues will be handed over to provincial Governments. Under the second head it is proposed to delegate financial powers by detailed modifications of the Codes and Standing Orders. With these principles of action the Government of India are in full accord; but they would like it to be perfectly clear that their own responsibility will now stand on correspondingly narrow ground. They recognise that, with the invaluable help of the audit, they have a general responsibility for the observance of financial propriety and the avoidance of waste. They recognise also that they cannot avoid the liability of preventing a province from becoming insolvent or from being unpunctual in paying its debts. These duties rest upon the Government of India so long as they are responsible to Parliament for the good administration of the country. They conceive, however, that, with the grant of this new financial liberty to the provinces, they are no longer required to watch the financial proceedings of local Governments in detail, or to enforce from day to day measures which they consider necessary to keep the

finances of a province in a healthy condition. Their intervention in future will take the form first of advice and caution, and finally, if caution is neglected, of definite orders which a province has to obey if it wishes to retain its constitution.

17. The relaxation of Codes and Standing Orders which the Government of India will recommend to the Secretary of State will involve much detailed labour of a highly technical kind, and it is probable that the Committee may not be disposed to examine this part of the case with any closeness. Put very briefly, the suggestions of the Government of India would be that the Secretary of State should be invited to lay down certain broad canons of financial propriety, to schedule the precise classes of expenditure to which his prior sanction is required, to formulate certain fundamental rules for the conditions of public service and probably several cognate matters and then to leave all other powers to the authorities in India. In purely financial matters the Government of India would, in pursuance of their ordinary policy, pass on to the provinces whatever powers they get in dealing with the non-central subjects, except in so far as the Secretary of State may, in any specified subject, make his delegation conditional on special surveillance being exercised by the central Government in India. The devolution of any part of a provincial Government's own financial powers to authorities subordinate to it forms another branch of the question, about which local Governments will obviously have to be brought into consultation before even any general principles can be enunciated.

18. The new arrangement, pivoted on the abolition of "divided heads," for distributing the financial resources and liabilities of the central and the provincial Governments is, as has been said, accepted by the Government of India in principle. Of the actual figures a further analysis will have to be made. It seems probable that certain charges, particularly in the Home account, which have hitherto been taken as central can rightly be transferred to the provinces; the payment of pensions in England is a case in point. It may also be desirable to eliminate some of the abnormalities due to war from the budget figures of 1917-18, upon which the calculations in the report are based. The provincial contributions tabulated in paragraph 206 may, therefore, have to be recalculated, in consultation again with the local Governments concerned; but the principle of assessing them by an all-round rate of the gross provincial surplus will be maintained. The patent inequity of the result, however, is a matter of grave anxiety to the Government of India. It is due, as the report explains, to historical causes. Chief among these is the Permanent Settlement, which prevents certain provinces from yielding the same proportion of the agricultural rents to the public exchequer as others in which the land revenue assessment is periodically revised. Another cause has been alluded to above: the different pace of the growth of expenditure in different provinces in the past. In some the standard was set much higher [illegible] greater than others; in some it was deliberately kept back in order to help the central Government in its days of financial stress after the last Afghan war [illegible] before the change of the [illegible] rate. The disproportionate [illegible] rate [illegible] which [illegible]

virtually be an income-tax, or a dock duty an addition to the Customs tariff. The law, however, would appear already to provide sufficiently against such encroachment (section 79 (3) (a) of the Act), and the veto could reasonably be employed in case of doubt; the less executive interference there is with provincial legislation, the better. The schedule of provincial taxes which may be imposed without further sanction, might include the following:—

any supplement to revenues which are already provincial: *e.g.*, cesses on the land, enhanced duties on articles that are now excisable, higher court-fees, increased charges for registration, etc.;

succession duties;

duties upon the unearned increment on land;

taxes on advertisements, amusements (including totalisators), and specified luxuries,

but it should not include any increment to the revenues of the central Government, any addition to the list of articles which are now excisable, or any duty (except as allowed above) on imports from without the province. The schedule should be established by rule, and not by statute, so that it can be corrected or enlarged in the light of experience.

21. On the subject of provincial borrowing the proposals in the Report have the entire concurrence of the Government of India. There has been some criticism from the provinces. Some local Governments apparently desire an unfettered power of raising loans for provincial purposes; several of them demur to any scrutiny by the central Government of the purposes for which a provincial loan is raised or required. In dealing with these claims the financial situation of India as a whole must be regarded. There are the following liabilities for redeeming or funding temporary unproductive debt in the near future.—

	[illegible]
	£
1919 Treasury Bills as on 15th November 1918 . . .	17
1920 Three-year war bonds . . .	13
1921 Three-year war bonds . . .	15½
1922 Five-year war bonds . . .	4
Cash certificates, say . . .	3
1923 Five-year war bonds . . .	11
1925 Seven-year war bonds . . .	[illegible]
1928 Ten-year war bonds . . .	[illegible]

These are big sums for the Indian market. There is also the certainty of having to borrow heavily for railway development. The Government of India must, therefore, keep a tight hold upon the market, and cannot afford to be embarrassed by unrestricted competition from the provinces. Again, when the demand for loan funds exceeds the supply which the Government of India can make available in any year, there must be some rough measuring of the relative merits of the proposed expenditure before the central authority makes the final allotment. It goes without saying

that the Government of India will have to give priority to loans required by a province either (*a*) for famine relief and its consequences, or (*b*) to finance its own Provincial Loan Account, which, it may incidentally be mentioned, will now in each case be taken over by the local Governments from the central exchequer. Apart from those special cases the general rule may with propriety be laid down that a province is not to borrow except for capital purposes: this term is capable of more precise definition, but may be provisionally taken as debarring a loan for an object which is not virtually a permanent asset of a material character. The establishment of sinking funds might also be prescribed, at least in the case of unproductive debt. If a province which has been permitted to borrow in the open market infringes these rules, its action will be challenged in audit, and would ordinarily be regarded as detrimental to the solvency of the provincial Government.

22. The hold previously retained over the balances of a province by the Government of India had two lines of justification. In the first place, the central authority is the banker of all public funds, and has to take precautions against withdrawals which may disturb its often fine-drawn calculations of ways and means. In the second place, it had to be vigilant against action by a local Government which might break down the provincial settlement and leave it a claimant for help from central revenues. There is in consequence a standing order that local Governments must, apart from famine requirements, retain minimum balances of the following amounts:—

	Lakhs each.
Madras, Bombay, Bengal and the United Provinces	20
Burma and Bihar and Orissa	12
Punjab, Central Provinces and Assam	10

There are certain other rules controlling the operation of provincial Governments on their own balances. Furthermore a province is not supposed to budget for a deficit unless it satisfies the Government of India that the excess expenditure is exceptional and non-recurring. In these respects several changes will ensue from the financial emancipation of the provinces. The report advises (paragraph 208) that there be " no more ear-marking of any portion of provincial balances;" but this statement needs, in the Government of India's opinion, some modification and extension. To begin with, definite regulations are desirable for the famine assignment made in the settlement with a province (paragraph 204). This annual assignment is cumulative, and should either be earmarked in the provincial balance or invested, in so far as it is not spent on purposes which, in the local Government's recorded opinion, will have a direct and calculable effect in palliating the consequences of drought. Secondly, the rules as to minimum balances and sanction to a budget deficit should be abrogated, and local Governments left to their own responsibility in these matters. Thirdly, a regulation will be needed to the effect that a local Government must give timely intimation of its intentions regarding drawing in each financial year on its credit with the Government of India, and that it be required, in the absence of famine or other grave emergency, to adhere to its

programme This information would provide the central Government, in case of war or similar crisis, with the opportunity for inviting local Governments to co-operate (which in the last resort it could require them to do) in conserving the financial resources of the State

23 The reference to ear marking in the report has a special significance in regard to "doles" It would, in the Government of India's judgment, be inconsistent with the greater financial independence of provinces that grants should be made in future from the central exchequer for the purpose of imposing a particular line of policy upon local Governments, who would in turn have to account for the employment of the moneys There is, of course, no reason against a business arrangement with a local Government by which it will take a subsidy from central funds for carrying on some work in which the central and the provincial authorities are jointly interested But, generally speaking, when the Government of India find that their revenues are becoming in permanent and substantial excess of their requirements, their usual course will be, it is conceived, either to remit central taxation or to make a rateable all round reduction in the contributions which they take from the provinces Against this there must be set a corresponding liability on the part of local Governments One province has made the impossible claim that the scale of provincial contributions, once fixed, shall never be raised Obviously the Government of India retain the right, in case of war or grave financial trouble and if they have to decide against adding to the central taxation of taking a rateable temporary increase on the provincial contributions, subject to a fair understanding with the local Governments as to the remission or even the repayment of the enhanced levy when the situation of central finance permits

IV —Provincial Finance under the new system

24 In an earlier part of this memorandum it has been suggested that the control of central finance may safely be left to the same agency and pretty much on the same footing, as at present In the provincial sphere, however, large changes will be necessary, and an attempt to forecast them briefly will now be made The wide relaxation, which is expected in the Secretary of State's control, and the release of local Governments from much of the present central surveillance over their financial proceedings will unite in casting a very much heavier burden of responsibility upon the Finance Departments in the provinces This will certainly be enhanced by the dual character of the spending power in the province Whatever view be taken of the proposals in the Report for financing "transferred" subjects it seems clear that the introduction of two final authorities for the preparation of projects to be inserted in the same budget, and for the sanction of expenditure from the same budget must make the finance more complex and decidedly more delicate than it is to day

25 Before the functions of a provincial Finance Department can be discussed with any confidence, it is necessary to decide one most important preliminary The provincial Government of the future will

consist of two parts. The Governor in Council is to retain certain of the sources of revenue and certain of the chief spending departments. Ministers will virtually be responsible for collecting certain other classes of revenue and for controlling certain other spending departments. Is each of these authorities to have a separate Finance Department of its own? Are there to be two agencies of financial control, one for the reserved subjects under the Governor in Council, and another for the transferred subjects under the Governor with his Ministers? In favour of this solution there is the argument that each part of the provincial Government should be a self contained unit, and the fear that a combined Finance Department would thwart the independence of Ministers in dealing with the subjects for which they will be responsible. On the other hand there is no argument of method in support of the idea of separate Treasuries. As between reserved and transferred subjects there may be slight differences of procedure; but the standards of propriety in collecting and spending public revenue, and the ideals of financial probity, must be identical in every branch of the administration. Nor is there any argument of convenience, as it will be more advantageous to have the whole financial control under one roof. And, of course, there would be no economy in having two full and separate financial staffs, especially as the work on the transferred subjects will at the outset be only a small part of the total provincial finance. In the opinion of the Government of India the need for unity and strength of financial control is decisive, and they unhesitatingly recommend that there be one undivided Finance Department in each province. It would be a reserved department, as by far the greater share of its work would be on reserved subjects; its duty will be the all-important duty of helping both parts of the Government to insist on a high standard of probity in handling the money of the tax-payer; and its functions, if properly administered, will bear some analogy to those of the judiciary.

26. A suggestion has been made that, in order to mark the relations of the Finance Department with both parts of the Government, it should be placed under a sort of Treasury Board, consisting of one Member of Council and one Minister. The idea is impracticable, as it would lead to delays, divided decisions, and unnecessary opportunities for friction. But the dual interests of the Finance Department can be effectively safeguarded in another and more helpful manner. The Government of India consider that, at least in all the larger provinces, there should be, in addition to the regular Finance Secretary, a second or Joint Secretary, whose business it will be to deal with all cases coming from departments under the control of Ministers. The selection of the officer to fill this appointment would be made by the Governor in deference, whenever possible, to any choice expressed by Ministers. He would be Financial Adviser in all transferred subjects; he would be wholly at the disposal of Ministers, to help and advise them on the financial side of their work; he would prepare their proposals of expenditure and the like for presentation to the Finance Department, and he would see that their cases were properly understood in the department and promptly dealt with. He would act in liaison between the Finance Member of Council and Ministers, and would ensure that transferred subjects get the same technical assistance and care in their financial bearings

as reserved subjects This arrangement, it is hoped, will dispel any apprehension that a unified Finance Department will detract from the authority of Ministers in managing their own portfolios The function of the Finance Department in truth is not an over-riding power. It is not a body that either dictates or vetoes policy It watches and advises on the financial provisions which are needed to give effect to policy It criticizes proposals and can ask for further consideration It points out defects in methods of assessment and collection, it can demand justification for new expenditure, it can challenge the necessity for spending so much money to secure a given object But in the last resort administrative considerations must prevail If there is a dispute regarding expenditure on a reserved subject, the Finance Member may urge that it is wrong or wasteful or that it will entail fresh taxation But he can be overruled by the Governor in Council If the dispute relates to expenditure on a transferred subject, the Finance Department may similarly expostulate But the Minister in charge of the particular subject can overrule it and its objections, taking the full responsibility for so doing In England he would, in theory, have to get the Cabinet to endorse his view in such a case, in an Indian province he would need only the concurrence of the Governor. As practice crystalizes and grows familiar, Ministers will find friendly and valuable help from the Finance Department in developing their schemes of expenditure on sound and economical lines

27 It is now possible to examine briefly the duties of a provincial Finance Department thus organized, its relations to both parts of the local Government being precisely the same, under the system of provincial finance set out in the report

(1) In its association with the revenue departments the Finance Department will excise steady pressure in the direction of efficient assessment and collection of every kind of State receipt There is little more to be said on this branch of the subject the department will consolidate its position with experience

(2) It will examine all schemes of new expenditure for which it is proposed to make budget provision, and an invariable rule should be established that no new entry may be inserted in the Budget until it has been scrutinized in the Finance Department and unless the department's opinion upon it is available to the legislature At this stage the duty of the department is to discuss the necessity for the expenditure and the general propriety of the proposals It has also to advise as to the provision of the requisite funds, whether they can be met from the existing resources of the province, or whether they will involve new taxation, or in the alternative whether they constitute a proper purpose for borrowing. Should new taxation be contemplated, it would be the deparment's duty to criticize the proposals, to advise and estimate This duty of the Finance Department is a preliminary to *Budget sanction*

(3) The next duty of the Finance Department relates to the entirely different matter *Expenditure sanction* Here it is important that

each province should have a rule of the same purport as the existing Government of India rule quoted in paragraph 11 of this memorandum. Insertion of a project in the Budget means that the legislature gives the proper executive authority a power to sanction the expenditure; it is not an order to disburse the money. That order must be given separately by the duly empowered authority; and it should not be given without prior consultation with the Finance Department. At this stage that department can scrutinize and advise on details which were probably not available at the Budget stage; it has also to see that funds allotted in the estimate for non-recurring expenditure are not employed so as to involve recurring expenditure that has not been foreseen.

(4) An important side of the last two branches of the department's work is that which relates to the public services. There are few greater dangers to a country than the unchallenged growth of the number of functionaries. And in particular here are few occasions on which an executive based on a popular assembly is more vulnerable than when it is pressed to add to the list of appointments paid from the public exchequer. A strong Finance Department is a powerful safeguard against these influences, and it should be definitely laid down by law that no public office should be created, or its emoluments determined, without prior consultation with that department. This will at least ensure publicity; and of course it need not debar delegation of minor powers of appointment.

(5) A prominent duty of the Treasury in England and certain other countries is the control of the issues of money from the exchequer. The Auditor-General, however, in a note appended to this memorandum, considers that this system would be impracticable in India at present, and the Government of India accept his view.

(6) This renders it all the more imperative that the Finance Department should be in a position to check expenditure for which there is no Budget provision, or which is in excess of the Budget provision, whether it is covered by the appropriation of savings from a Budget grant or not. The information about any such irregularity will reach the Finance Department through the accounts and in the course of audit. But an obligation should also rest upon the executive authority concerned to give the department timely intimation; and the Government of India recommend the following rules:—

(*a*) budgetted funds may not be transferred between minor heads of the same major head without prior consultation with the Finance Department;

(*b*) funds may not be transferred between major heads without either the concurrence of the Finance Department or the approval of the authority which passed the Budget;

(*c*) unless covered by transferred savings, no unbudgetted expenditure or expenditure in excess of the Budget provision for it may be incurred without either the concurrence of the Finance Department or the approval of the authority which passed the Budget.

The general effect of these rules will be to ensure that the intentions of the legislature are not seriously departed from without the knowledge of the Finance Department, which will be responsible for interpreting those intentions in a reasonable spirit. Convenience and commonsense will suggest some pecuniary limits below which the rules will not operate. Above those limits, however, it will be the function of the Finance Department either (i) to condone the unauthorized charges where it does not consider that they depart materially from the purposes of the Budget, or, (ii) where it regards the departure as serious, to report the matter to the legislature for its orders. A model set of detailed rules can be drawn up for the guidance of the provinces but the main principles ought to be embodied in regulations under the constitutional law.

(7) Finally, the Finance Department must be in intimate relations with the Audit. It will have to advise the auditor regarding the scope and intentions of schemes of expenditure having itself been apprised of these in its discussions with the executive authority at the preliminary stages. It will be consulted by the auditor about the detailed application of financial principles and the interpretation of financial rules. It will keep him informed about prices, local rates of labour and many other facts which are relevant to his audit but of which he has no other source of knowledge.

V.—Audit in the Provinces

28. This leads to the last topic in the memorandum, the manner of auditing the provincial accounts under the new system. Here again, the work will be conducted on exactly the same principles for the reserved and for the transferred subjects. It will be carried out by the provincial Accountant General acting as the Deputy of the Auditor General in complete independence of both the Governor in Council and the Ministers. The Government of India need not labour the supreme value of an efficient and independent audit. In relation to the revenue departments its duty will be to see that the methods of assessment accord with the law, and that the collections are prompt, impartial and businesslike. In relation to expenditure it will have regard to the financial regulations of the province and also to the broad principles of legitimate public finance. It will not only see that there is code authority for all outlay but also investigate the necessity for it. Was this item in furtherance of the scheme for which the Budget provided? Could the same result have been obtained otherwise with greater economy? Was the rate and scale of expenditure justified in the circumstances? If purchases were made, were they effected with due publicity of tender, etc.? The Audit will constantly be asking such questions as these—in fact every question that might be expected from an intelligent tax payer bent on getting the best value for his money. At present the audit department generally is tied too much to formalities—the codes and their cumbersome details rather than their spirit. Until recently it very rarely challenged the wisdom of any public expenditure or its economy, or its conformity with policy. It was usually content with proof that the

money was actually spent on its declared purpose, and that there was proper formal authorization under the codes for its outlay. All this will have now to be replaced by a spirit of greater inquiry.

29. In dealing with audit reports, the procedure recommended by the Government of India is as follows. Each report will be submitted to the Governor, for communication to the executive authority concerned, whether Member of Council or Minister. Copies will simultaneously go to the provincial Finance Department and to the Auditor-General. The Finance Department will take orders upon the report. In the case of reserved subjects, the Governor in Council will dispose of the report and have power to condone surcharges and disallowances, except where they relate to definite infringements of orders of the Secretary of State or the Government of India. In the case of transferred subjects, Ministers will have an exactly corresponding position. But, in each case, the Finance Department will place the report and the orders upon it before the legislative authority which passed the Budget. As part of the constitutional scheme, that body should be expected to appoint a Public Accounts Committee, before whom would come all audit reports, and all cases of unauthorized expenditure and transfers which the Finance Department decides to submit to them. Cases where orders of the Government of India or of the Secretary of State have been infringed will be referred to those authorities respectively through the Auditor-General. Otherwise the legislature will have final power to condone or enforce any audit objection and to vary whatever executive orders may have been passed on it. But before the Public Accounts Committee the Finance Department will be the champion of the audit. It will bring all irregularities into the light of day, and will move the Committee to accord them full consideration and to deal adequately with the offenders. For this purpose it must have full right of access to the Committee, and should be represented at every sitting held in connexion with the audit reports and the annual statement of excesses and re-appropriations. In this sketch of procedure there is, it will be understood, nothing that derogates from the right of an Accountant-General to bring financial irregularities immediately to the notice of his local Government, or of the Auditor-General to bring to the notice of the Secretary of State any matter in which he considers the action of a local Government to have been perverse or contrary to public interests.

Audit and Accounts under the Reform Scheme.

[NOTE 1.—Throughout this memorandum whenever the word "Indian" is used in contradistinction to "Provincial," it is adopted in place of the word "Imperial" in the technical sense in which that word is now employed in relation to Indian Finance.

NOTE 2.—In the brief preliminary explanation of the existing system, there is no reference to the arrangements for the audit and accounting of transactions of certain Indian Departments which are undertaken by departmental Accountants-General working directly under the Comptroller and Auditor-General, as these arrangements need not come under consideration in this connexion.]

1 The unit of administration in India is the district, of which there are more than 200, and at the headquarters of each district is a Government treasury into which and from which all Government receipts and expenditure within the district, whether Indian or provincial, are paid There is a strict demarcation in the treasury between the maintenance of the accounts and the receipt and issue of money A gazetted officer, called the Treasury Officer who is always a member of the Provincial Civil Service, is responsible to the Collector for all the work done at the treasury The accounting work is supervised under the Treasury Officer, by the Accountant and the monetary transactions by the Treasurer The Treasury Officer is responsible for a rough verification of the accounts balance with the cash balance at the end of each day while the Collector is responsible for a strict verification of the cash balance at the end of the month and for a certificate as to the agreement of the cash and account balances On the 11th day of each month the bills presented and paid during the first ten days are forwarded to the Account Office, while at the close of the month the remaining bills are forwarded with a cash account for the transactions of the month and also a report as to the cash balances Except in Madras the treasury staff make little attempt to classify under various heads of account the receipts and the payments at the treasury

2 On arrival at the Account Office of the province these documents pass into the hands of a district auditor who is generally responsible for the audit and classification of all the transactions and for the posting of these transactions into the "district classified abstract" which is the first stage in the preparation of the final Government accounts Some of the bills the audit of which requires specialised knowledge are sent to other audit sections After audit these bills are returned to the district auditor for entry in the classified abstract The classified abstracts on completion and check are sent to another section of the Account Office in which the transactions are reposted so as to bring together under each head of account the transactions in each district thus working up to a total of all the transactions within the province under each head of account

3 It is important to notice at this stage that these accounts include both Indian and provincial transactions and that the working out of provincial balances apart from the Indian balances is solely a matter of accounting and is accompanied by no corresponding separate cash balance

4 The head of the Account Office called usually an Accountant-General in addition to his work in connection with audit and account within the province exercises other functions in respect of—

(1) Budget work and

(2) Currency and resource

5 At present the responsibility for the initial preparation of the provincial budget rests with the local Government which forwards the budget to the Government of India for its acceptance

Before framing the budget, the estimates, which have been prepared by various departmental heads, are nearly always sent to the Accountant-General for check and comment. These comments are based mainly on a comparison of the anticipated expenditure with the expenditure under the same head in previous years, while the Accountant-General also brings to the notice of the local Government any entries in the estimate for which no sanction has yet been obtained. A revised estimate is prepared during the course of the year and the primary responsibility for advising the Government of India as to the receipts and expenditure that they may anticipate rests with the Accountant-General and not with the local Government.

6. The natural comment in respect of the Accountant-General's budget work is that he is exercising a function which pertains properly to the Finance Department of the local Government or of the Government of India. The explanation of the existing arrangement is that the duties now performed by the Accountant-General necessitate constant reference to the latest available figures as regards the progress of receipts and expenditure and to the sanctions accorded by the various sanctioning authorities. The former are immediately available only in the Account Offices and in practice Account Offices work during the budget season at very high pressure so as to make these figures available up to the latest possible date. The transmission of these actuals to any other authority, to be utilised by them, would delay the preparation or the revision of the budget. Sanctions are also brought together more systematically in Account Offices than elsewhere.

7. The manner in which the Government of India administer the currency and resource operations of the country will be described, if necessary, in a separate note. For the purpose of this note, it is sufficient to explain that in every important province there is a Currency Office in which is kept the greater part of the Government cash balances. At every treasury, however, sufficient cash is retained in order to meet immediate demands, while the surplus receipts at most treasuries are set aside in separate receptacles as part of the currency balance of the country. A demand of a treasury for additional cash to meet anticipated expenditure is usually met by a transfer of money from the currency chest to the treasury against a corresponding transfer in the reverse direction at another currency chest. The officer responsible to the Government of India for these and all other currency transactions throughout India is the Controller of Currency, but he acts through the Accountant-General, who issues detailed orders for the transactions within his own province. Thus the Accountant-General works under two masters. As regards accounts and budget he is responsible to the Government of India through the Comptroller-General, who is the head of the Department. As regards audit he is responsible to the Auditor-General, who is also the Comptroller-General. His work in connection with currency and resource is executed under the instructions of the Controller of Currency, who works under the Government of India in the Finance Department.

8 Expenditure on accounts and audit throughout India is an Indian charge (neglecting the cost of a small esablishment in each province engaged in auditing the accounts of local bodies)

9 The officers in these Account Offices belong to the Indian Finance Department and in view of the similarity of names it may be desirable to explain the essential difference between this Department and the Finance Department of the Government of India The latter is an integral portion of the Government of India itself—like the Home Department The former is a service of officers performing financial duties throughout India and subject directly and solely to the authority of the Government of India in the Finance Department

10 The Indian Finance Department is recruited—as to one sixth of the appointments by the promotion of subordinates—and as to the remainder by recruitment in England and in India in such manner as to ensure that one half of the vacancies are filled by Indians In connection with the report of the Public Services Commission the Government of India have recommended to the Secretary of State that hereafter two thirds of the vacancies shall be filled by Indians The officers of the Department are on a time scale of pay viz Rs 300—50—1 250—$\frac{50}{2}$—1 500 Above that there are in addition to posts reserved for Indian Civil Service 9 appointments in Class I on 1 800, 3 appointments of Chief Auditors of Rs 2 000 per mensem and 6 appointments Rs 2 250 2 500 and 2 750 All appointments to the Departments in India all promotions to Class I and all appointments as Comptroller Chief Auditor or Examiner Military Works Services are made by the Government of India in the Finance Department while appointments as Accountants General have to be approved by the Viceroy In the same way the grant of leave to and the transfer of Accountants General Comptrollers Chief Auditors Examiner Military Works Services and officers of Class I and any disciplinary action in respect of such officers require the sanction of the Government of India The Government of India also pass orders on the results of departmental examinations grant extensions of service and sanction pensions In all these matters the Comptroller General exercises all the powers not expressly reserved as indicated above for the Government of India or the Viceroy

In respect of other matters connected with the administration of the Department the Comptroller General has been vested with the powers of a Head of a Department under the Government of India This gives him very little power to sanction permanent appointments but a fairly free hand in sanctioning temporary appointments and miscellaneous expenditure generally

11 The title of the head of the Department—Comptroller and Auditor General—connotes his dual functions As Comptroller General he is the administrative head of the Department and is also responsible for the compilation of the accounts of India as a whole In this capacity he is subordinate to the Government of India while as Auditor General he is responsible to the Secretary of State alone On an audit question he can insist on a reference to the Secretary of State and his

annual Audit and Appropriation Report has to be forwarded by the Government of India to that authority. To enhance his independence, the Comptroller and Auditor-General is appointed by the Secretary of State on the recommendation of the Viceroy and he is given to understand that he cannot ordinarily expect to receive any higher appointment under the Government of India.

12. When complete provincial autonomy has been attained, it may be assumed that the provincial Account Office will no longer be required to bring to account Indian transactions occurring within the province, and that the *preliminary record of any Indian* receipts or expenditure paid into, or from, a provincial treasury will be sent to an Indian Account Office, either direct from the treasury or through the provincial Account Office, which will merely act as a post office. The provincial Account Office will then deal with nothing but provincial transactions and its cost can appropriately become a provincial charge and the officers serving therein can belong to a provincial service.

The provincial Auditor-General will then be the officer on whom the Legislature will depend for ascertaining whether the financial orders passed by them have been complied with and for bringing to their notice any violations of those orders. He must then be in a position of the utmost independence and his appointment should be on a statutory basis. He should be empowered to bring to light, in regard to *public expenditure, violations not merely of rule but also of* the canons of financial propriety. One may anticipate that the Legislature on receipt of his report will appoint from among themselves a committee to enquire into the irregularities brought to notice and to advise as to the action to be taken against the offenders and to prevent the perpetration of similar irregularities in future.

13. It is premature yet to foreshadow whether this officer should then continue to be the head of the Account Department. This must depend on the result of any changes which may be made in the near future in the position and functions of the Comptroller and Auditor-General, a question which is discussed later in this note.

14. This picture of the ultimate goal is presented as a guide in determining what progress it is possible to make at present towards that goal. In discussing this question due regard must be paid to the system and degree of financial control to be introduced in the near future, a matter which is discussed in detail in another note. For the purpose of this discussion, it may be accepted that financial control, as exercised by the Finance Department of a provincial Government, will be for the present a reserved subject and will be one of the last of those subjects to be transferred. Financial control depends very largely upon an efficient system of audit and account and the handing over of the supervision of audit and accounts to the Ministers should be simultaneous with the transfer to them of financial control.

15. It does not necessarily follow, however, that it may not be possible before that date to set up separate agencies for the auditing and accounting of Indian and provincial transactions respectively. But the difficulties which would then arise must be weighed.

16 One practical difficulty will be that each Treasury Officer will come under the orders of two accounting officers in respect of Indian and provincial transactions respectively Hereafter a recommendation will be made that Accountants General shall no longer remain responsible for currency and resource operations those duties being transferred to other officers working directly under the Controller of Currency If that recommendation is accepted and given effect to the position of the Treasury Officer in a district will then be as follows In respect of resource operations he will have to obey the orders of an officer subordinate to the Controller of Currency In respect of audit and accounts he will have to obey the instructions of the Accountant-General As a member of the provincial service, and also in many cases in respect of other branches of work allotted to him he will be under the orders of the Collector It will be a little difficult to require him in respect of the audit and accounting of Indian transactions to come under a fourth officer This difficulty may not be insuperable but at present it is undoubtedly serious If ever the time comes when there is a State bank with a branch in each district responsible for all currency and resource operations in India the difficulty arising from the multifarious duties of the Treasury Officer will be diminished The time may even come when Treasury Officers will be chosen not from the Provincial Civil Service but from the Provincial Accounts Department

17 A more serious difficulty will be the diminution of independence which will be the probable consequence of the substitution of numerous small audit departments for the existing Indian Finance Department which now performs these duties of audit and account throughout India The officers of the department number over two hundred The tradition of the department its numerical strength its prestige as an Indian department the constant transfers of the officers from one office to another throughout India all contribute towards the honesty and independence for which the department has a high reputation Prior to 1910 the auditing and accounting of Public Works transactions were the duty of a separate Public Works Accounts Department which formed a portion of the Public Works Department and worked under the orders of the Government of India in the Public Works Department In that year that Accounts Department was amalgamated with the Indian Finance Department and one of the main reasons for the amalgamation was the feeling that officers of the Public Works Accounts Department in the performance of their audit functions were not so independent as the officers of the Indian Finance Department There can be little doubt that the amalgamation has effected a considerable improvement in this respect If the Indian Finance Department were split up into different cadres—one for each province—the number of officers working in each province would be very small while remaining for the whole of their service in the same province they would be more subject to local influence and would lose that breadth of outlook which comes by transfer from one office to another

18 The arguments in favour of an increase rather than a diminution in the near future of the independence and breadth of outlook of audit officers are overwhelming On this point and on the relations

between audit officers and a provincial Financial Secretariat in future I am in entire agreement with the views expressed in paragraphs 27 and 28 of the memorandum. The work of audit officers will inevitably increase in importance as the Reform Scheme comes into effect. In paragraph 260 of the report the authors state "on the other hand it should be made plain to them (*i.e.*, the Government of India) that, if certain functions have been seriously maladministered, it will be open to them with the sanction of the Secretary of State to retransfer subjects from the transferred to the reserved list, or to place restrictions for the future on the Ministers' powers in respect of certain transferred subjects." If ever such action has to be taken, its need will have been proved by the records of the local Finance Department in their relation with the Ministers and by serious financial irregularities, perpetrated in connection with transferred subjects, brought to light in the appropriation reports of the Auditor-General and of the local Accountants-General.

Moreover, it may reasonably be contemplated that one measure of financial control will be the creation of various Accounts Committees who will be entrusted by the various legislatures with the duty of investigating financial irregularities brought to light in the various appropriation reports. It will then be the duty of the authors of those reports to appear before those Committees and explain to the members the facts of each case.

At first Ministers will be peculiarly susceptible to public opinion and should, therefore, welcome the maintenance of a strong and independent audit department, the existence of which will enable them to refute an accusation of financial impropriety in the exercise of their official duties. This argument will be all the stronger if the audit department regards itself as empowered to report not merely those cases in which definite rules have been violated, but also those cases which, though not contrary to any particular rule, yet contain elements of financial impropriety.

19. For all these reasons, while the formation of separate provincial Account Offices must be regarded as eventually inevitable, I am strongly of opinion that the department should remain an Indian department as long as possible. There is no objection, however, to each province meeting that portion of the cost of the Civil Account Office of the province, which represents the share of the work done in that office in respect of provincial audit and accounts.

20. I am also of opinion that it will not be practicable to divest the existing Account Offices in each province of their responsibility for the audit and accounting of Indian transactions within the province until the number of transactions thus brought to account is considerably reduced, or until Local Governments become, to a smaller extent than at present, the agents of the Government of India in such matters.

21. It has already been urged that, when the Accountant-General in each province becomes an independent audit officer, his position should be regulated by statute. Meanwhile, for the same reasons, it is

regarding the Department. I also consider that the Comptroller and Auditor-General should have powers of surcharge and of calling for papers

28 I am bound to state, however, that since the creation in 1914 of the post of Comptroller and Auditor-General on its new basis the control of the Government of India over the Department has not reduced audit independence My recommendation, therefore is based on the theoretical desirability of audit independence and on the possibility very remote it is admitted, of interference therewith if the existing system continue rather than on any case in which audit independence has suffered

29 As regards the functions of Accountants-General, I have already expressed the opinion that they should be relieved of duties connected with currency and resource work in respect of which they come directly under another officer The importance of the currency and resource work, which has to be undertaken by various Accountants-General, varies considerably, so that at any moment a situation may arise in which the Controller of Currency may desire the removal of an Accountant-General to a station where the currency work is less important, because he has shown himself unfit to perform the currency work in a province where such work is of considerable importance The duty will then devolve on the Comptroller and Auditor-General as head of the Finance Department of recommending to the Government of India in the Finance Department the transfers which will be necessary in order to accede to the request of the Controller of Currency The Comptroller and Auditor-General, in the interests of the account and audit work, may desire to leave that officer where he is or he may find it difficult to suggest arrangements which will satisfy both the Controller of Currency and himself I wish it to be understood that these remarks are made purely from a theoretical standpoint Since the separation of the functions of the Controller of Currency, I know of no case in which such a situation, as is apprehended above, has arisen between the Comptroller-General and the Controller of Currency, but existing arrangements render possible such conflict of opinion, and I think it is desirable that these duties should be separated if the separation can be effected without serious administrative difficulty, specially as many of the Accountant-General are at present seriously overworked I do not think that it will be found difficult to make the separation

30 The Accountant General at present advises the Controller of Currency as to some of the figures to be adopted in his forecasts Inasmuch as his advice is based on accounts figures this assistance must continue I do not consider that the duty of advising other officers as to the figures to be adopted in budget or currency forecasts is any real infringement on his independence as an audit officer

31 The manner in which the Auditor-General's reports should be dealt with in future is more a matter of financial control than of audit It is sufficient to remark here that, until there is a separate Auditor-General for each province, any appropriation report, which may hereafter have to be submitted to a local Government or legislature, should

have to apply in audit, are orders issued by the Secretary of State defining and limiting the powers of the Government of India. It is no answer to this argument to say that the supreme audit authority is vested in the Auditor-General, because the Accountant-General is responsible for framing his own conclusions as to the sanction required for any item of expenditure, and the intervention of the Auditor-General is secured only by way of appeal against his decisions. Again, it cannot be said that the Auditor-General is in complete independence so long as the position is that the officer, who as Auditor-General is supreme in audit matters, is, at the same time, subordinate as Comptroller-General to the Government of India in the administration of the department.

24. If the independence of the Auditor-General is to be enhanced, two alternative modifications of the existing arrangements may be considered. The first is to retain one officer with dual functions and to hand over to him complete control of the department, the Government of India in the Finance Department absolving themselves of all responsibility and authority in that matter.

25. The second alternative is to separate the two functions and to have a Comptroller-General who shall administer the whole department as at present but be relieved of final authority in audit matters, that authority being vested in an Auditor-General with his own staff permanently working in the various Account Offices and checking on behalf of the Auditor-General the audit which has been undertaken therein.

26. I may mention that considerable thought has been devoted to the consideration of the question whether it will be possible to separate in Account Offices in India the audit duties from the other duties performed therein. A change in procedure which would inevitably be the first change, if any such modification were to be introduced, has been under trial in one provincial Account Office for the last 7 or 8 years. The results have been condemned by every Accountant-General who has watched it. I am convinced that such a separation is impracticable.

27. As regards the alternative proposals mentioned above, I prefer the former, inasmuch as the whole of the audit will then be performed by officers who are immediately responsible to the Auditor-General and to no other authority. Under the second proposal the actual audit will be performed by officers not subject in any way to the Auditor-General, who would obtain his information merely from a recheck of a small part of the audit. After mature consideration, I have come to the conclusion that in practice the existing arrangement, under which the audit officers are directly subordinate and responsible to the Comptroller and Auditor-General, even though it involves the subordination of that officer to two authorities, gives better results than could be anticipated from a system under which the actual audit is performed by officers not subordinate to the Auditor-General. It follows, therefore, that I recommend the adoption of the former alternative, *viz.*, the abolition of the control of the Government of India over the Indian Finance Department and the vesting in the Comptroller and Auditor-General of all the powers of the Government of India

regarding the Department. I also consider that the Comptroller and Auditor-General should have powers of surcharge and of calling for papers.

28 I am bound to state, however, that since the creation in 1914 of the post of Comptroller and Auditor-General on its new basis the control of the Government of India over the Department has not reduced audit independence My recommendation, therefore is based on the theoretical desirability of audit independence and on the possibility, very remote it is admitted, of interference therewith if the existing system continue, rather than on any case in which audit independence has suffered

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31 The manner in which the Auditor-General's reports should be dealt with in future is more a matter of financial control than of audit It is sufficient to remark here that, until there is a separate Auditor-General for each province, any appropriation report, which may hereafter have to be submitted to a local Government or legislature, should

be issued by the Auditor-General, even though it may have been prepared for him by the provincial Accountant-General. In so far as such reports relate to "transferred" subjects it seems desirable that they should be considered by committees appointed by the legislature.

32. Every effort should be made to improve the efficiency of the audit and, as one measure to this end, I suggest that the rules contained in the existing codes, which have to be applied in audit should be recast entirely. For nearly four years it has been my duty from time to time to ascertain the manner in which rules in these codes have originated and expanded and the growth of the accretions, by which the original rules have become overlaid with exceptions and explanations and even in many cases with principles incompatible with those which the original rules desired to express. As such cases come to notice, endeavours have been made to redraft individual rules, but I am convinced that the time has now come for this matter to be taken up systematically with the avowed intention of evolving as simple as possible a set of fundamental rules within which local Governments may be given large powers in the application of these principles to individual cases. It is desirable, however, to sound one note of warning. The Reform Scheme contemplates not merely devolution but also decentralisation, and any system of delegation of power involves the creation of a set of rules defining that power, which rules it will be the duty of the audit officer to apply. While, therefore, valuable work can be done in simplifying and harmonising the principles underlying the rules in various codes and in reducing those into a set of fundamental rules, it is inevitable that, subsidiary to those rules in each province, there will be a mass of other rules defining and limiting the power of subordinate authorities within each province. It is to be hoped that the experience of the Government of India will be a warning to the financial authorities in the provinces and an inducement to them to keep the subsidiary rules as few as possible.

33. It will also be the duty of the audit officers to relax their attention to details and to devote more and more of their time to a consideration of the manner in which the various executive officers are undertaking their more important financial responsibilities. There can be no advance in this direction, however, unless those authorities appreciate more clearly than they do at present, the position and duties of the audit officer. Any scrutiny of, or enquiry as to, the manner in which executive officers are exercising the financial responsibilities entrusted to them by Government is often resented by such officers and an important part of the functions of any Finance Department, and an important feature of financial control, will be the duty of explaining to authorities incurring expenditure on behalf of Government the duty which is imposed upon audit officers to scrutinise the manner in which those duties are performed.

34. In conclusion, a few minor changes require comment:—

The existing accounts are very elaborate. The first great division is into:—

(*i*) revenue and service heads for the revenue and expenditure proper of Government; and

(ii) debt and remittance heads for the receipts and payments incurred, in respect of which Government acts as a banker or remitter or borrower or lender, or which are merely in transit from one place or head of account to another

The main unit of classification is the major head of which there are about 34 under revenue 51 under service and about 70 on each side of the account for debt and remittance The major heads are sub divided into minor heads of which there are 200 under revenue and nearly 300 under service and several hundreds under debt and remittance, and finally there are detailed heads which run into thousands The existing arrangement is that, while the main structure of the accounts remains under the complete control of the Government of India local Governments are given full power to vary the detailed heads The final record of account in India is the volume entitled the Finance and Revenue Accounts which is presented to Parliament It is an essential feature of the Reform Scheme that the Secretary of State and the Government of India reserve full right to call for information in any form they require and the main structure of the accounts will no doubt be decided by a request by the Secretary of State or the Government of India for the accounts to be submitted to them annually in a particular form It may be anticipated that this form will not be in undue detail and that within the form the local Government will have full power to amplify or modify the details They will also no doubt be able to recommend to the requesting authority either an amplification or modification of the form in which the information is called for But until the form is modified by either authority the form required will determine the structure of the accounts maintained by the Accounts Department Inasmuch as accounts purport to be a statistical presentation of facts any complete separation of provincial from Indian finance will necessarily be accompanied by a separation of provincial from Indian accounts This will affect the whole structure of the accounts but it is unnecessary to discuss at this stage the detailed consequential changes—a matter which can suitably be left over for future consideration

35 Some of the general principles governing the classification of the accounts will require modification as the Reform Scheme develops Thus at present the general rule is that inter provincial adjustments are prohibited except with the concurrence of both Governments concerned With the greater independence and isolation of provincial finances this will no doubt have to be reversed inter provincial adjustments being allowed unless both provinces agree to waive any adjustment in a particular case

36 Another important fundamental principle is that 'the classification in the public accounts has closer reference to the department in which the revenue or expenditure occurs than to the object of the revenue or expenditure or the grounds upon which it is sanctioned As the separation between reserved and transferred' subjects and between Indian and provincial expenditure becomes more and more complete, it will become more in accordance with facts to regard a department, which incurs expenditure on behalf of another rather as an agent of that

department than as fellow servant of Government, both spending money from one fund. The modification of this rule, however, must be determined by the facts as they evolve and it is sufficient at present to note that this principle, simple and efficient though it has been in the past, may have to be gradually abandoned.

37. Any division of provincial subjects into "reserved" and "transferred" will accentuate the importance of the work of Account Offices in the classification of receipts and expenditure. At present the Accountant-General is enjoined to refer to the Comptroller-General all questions bearing on the classification of receipts and charges and other matters of account, such questions not being referred to the Government of India unless the Comptroller-General is in doubt or the local Government does not accept the Comptroller-General's view. In future the Governor will take the place of the Government of India as the final authority as regards the classification of a provincial receipt or expenditure as "reserved" or "transferred."

M. F. GAUNTLETT.

10th December 1918.

Exchequer Issues.

Several authorities have recommended the introduction into India of some form of exchequer issues as a means of securing more complete and efficient financial control over payments.

2. It may be desirable to explain briefly the existing arrangements in India and the difficulties that may be anticipated if it is decided to extend those arrangements so as to constitute a complete system of exchequer issues.

3. The fundamental rule regarding the payment from a treasury in India is that "if a demand is presented at a treasury which is not provided for by the rules in the Account Code or is not covered by a special order received from the Account Office the duty of the Treasury Officer is to decline payment for want of authority." It is even stated that "a Treasury Officer has no authority to act under an order of Government sanctioning a payment unless it is an express order *to him* to make the payment, and even such orders should, in the absence of urgency, be sent through the Accountant-General." It would be difficult and would render this note unduly long to discuss the application of this rule to every form of payment at a treasury. It is sufficiently accurate to state, perhaps, that under this rule no salary or establishment or travelling allowance bill or any bill for ordinary contingent charges could be cashed at a treasury unless the Treasury Officer had received a copy of an order passed by competent authority sanctioning the entertainment of the officer or establishment in respect of, or by whom, the charge is incurred. In the same way a bill for a contingent charge of a special nature, such as a grant-in-aid, would not be passed until a Treasury Officer had received due authority.

4 These arrangements in practice prevent serious excesses over the grants for expenditure of a recurring character, such as on salaries, so that control by any system of exchequer warrant is unnecessary, while it is undesirable seeing that the expenditure, once it is sanctioned, is inevitable But much expenditure is of a non recurring type, and as the most important expenditure of this type is that on Public Works it may be desirable to explain in more detail the Indian system of check over the drawals for such expenditure

5 Prior to the amalgamation of the two Accounts Departments in 1910, officers of the Public Works Department drew lump sums from the treasuries and made therefrom all disbursements of Public Works expenditure These drawals were made against letters of credit issued by the Accounts Officers As a result of the amalgamation, salary, establishment and travelling allowance bills are now in some provinces payable at the treasuries and from the 1st April 1919 this will be the practice everywhere The drawings of Public Works Officers for the disbursements of other forms of expenditure will then no longer be checked against letters of credit In Bengal they have been abolished since 1912 This course has been taken because after mature consideration it has been decided that the extra check imposed thereby is not worth the trouble entailed by the continuance of the system

6 The procedure under this system was as follows —

Each Executive Engineer had to estimate his expenditure during the period covered by the letter of credit on each individual work in progress and on other forms of expenditure such as salaries establishment travelling allowances and contingencies He also had to estimate the balances left over from his existing letter of credit and deduct this from his estimated total grant so as to arrive at the amount required under the new letter of credit The Chief Engineer in each province had to check all these demands from the Executive Engineers If his check was to be of any real value he would have to take into account the personal equation of each Executive Engineer and it is probable that his office also exercised a statistical check over these demands against the drawings during the same period in previous years The Chief Engineer then prepared a consolidated statement for the province and sent it to the Accountant-General He issued the letters of credit to individual treasuries and, at the same time posted the amounts of these letters of credit in the registers in which had been entered the grant under each major head concerned so as to ensure that letters of credit were not issued in excess of the grant under each major head At the close of the month the Executive Engineer submitted his pass book to the Account Office together with his monthly accounts The operations on the letter of credit, as indicated in the pass book were then checked in the Account Office

7 In forming a correct appreciation of the amount of work entailed, it has to be remembered that under this system a letter of credit had to be prepared for the transactions of an Executive Engineer under each major head of account at each treasury from which he drew funds Excluding the heads exhibiting railway expenditure, there are six major heads which can be operated upon by an Executive Engineer In the

United Provinces, there are, I believe, 48 treasuries. One Executive Engineer may have drawing accounts at two or three of these treasuries, while in other cases four or five or even six Executive Engineers may have drawing accounts at one treasury. Thus the amount of work entailed was enormous.

8. It was fully recognised, moreover, that this check against letters of credit was the least important check applied to Public Works expenditure. Salary and establishment bills are always checked against sanctions: travelling allowance and many forms of contingent bills against grant. Special contingencies are also checked against grants and often against sanctions as well. In respect of expenditure on works proper, the main checks are against estimates and allotments and, having regard to the importance of these checks, it was decided after full consideration that the value of the further check against the letter of credit was incommensurate with the amount of work entailed.

9. The system still obtains in respect of expenditure on forests, but there its operation is simpler, as fewer major heads, treasuries and officers are involved. Its abolition in respect of such expenditure was proposed years ago, but the matter was held over until the result of the abolition in respect of Public Works expenditure became apparent.

10. A statement is enclosed showing the net grant and expenditure—Imperial and Provincial—during the last 4 years in 5 provinces under all the Public Works heads of expenditure. This statement gives 76 comparisons between actuals and net grant and in 11 cases only is there any excess, only one of which is of any importance. In no year has the total grant of these 5 provinces been exceeded. It is noteworthy that Bengal is the only province in which during this period there has never been an excess over the grant and also the only province in which letters of credit were not in existence. There will be more danger, however, of excess drawals in future if, as seems probable, the powers of re-appropriation are reduced considerably.

11. On the whole I do not recommend the introduction of any general system of letters of credit, and I gather that those authorities that have put forward this recommendation have agreed that its application to routine payments would involve unnecessary labour. As regards its introduction as a check on the drawings in respect of large items of expenditure, it may be more convenient to discuss the question in the first place as regards Public Works expenditure only. It would not be difficult to apply this system to those works which are so important as to require the sole attention of an Executive Engineer, as then the check could be applied to the whole of the financial operations of that Executive Engineer. Difficulty would arise, however, in the case of an Executive Engineer who combines with numerous petty duties the supervision of a work so important as to require control by letters of credit. In that event the Executive Engineer would have to specify when drawing a cheque on a treasury whether the cheque was to be taken against the letter of credit or whether it was for work to which that check had not to be applied. I am of opinion that such a procedure is impracticable and that if any work supervised by an Executive Engineer is so important

as to require control by a letter of credit, then the letter of credit should cover all the operations of that Executive Engineer under the check of the letter of credit

12 The conclusions of this note may be summarised as follows —

(1) The introduction of a system of letter of credit for ordinary civil expenditure is unnecessary

(2) As regards Public Works expenditure —

(*i*) The experience of the past few years does not indicate that excess drawals constitute a serious evil

(*ii*) A reduction of the power of reappropriation may lead to an increase of excess drawals under individual heads though the net provincial balances will remain unaffected

(*iii*) In view of the decentralisation of payments in India it is undesirable to introduce a system of letters of credit in respect of the drawings for all works expenditure

(*iv*) If it be thought necessary, such a check may be introduced on the drawings in respect of important works, that phrase being defined as meaning any work the estimated expenditure on which exceeds say one lakh (the limit, of course, being subject to further discussion with the technical authorities)

(*v*) Whenever an Executive Engineer has to draw funds from a treasury for expenditure on an important work as so defined, the whole of his drawals from that treasury for works expenditure, whether on that or on any other work will come under the operation of a letter of credit

(3) If it be decided to control expenditure on important Public Works in the manner indicated in sub clauses (*iv*) and (*v*) of clause (2) above, it should then be considered whether it is practicable to introduce a similar system of control at the treasuries over drawals for other important classes of non recurring expenditure either by a system of letters of credit or by an elaboration of the existing system of check against grant

M F GAUNTLETT

The 11th December 1918

	Imperial.								Provincial.							
	1913-14.		1914-15.		1915-16.		1916-17.		1913-14.		1914-15.		1915-16.		1916-17.	
	Net grant.	Expenditure.	Net grant.	Expenditure.	Net grant.	Expenditure.	Net grant.	Expenditure.	Net grant.	Expenditure.	Net grant.	Expenditure.	Net grant.	Expenditure.	Net grant.	Expenditure.
Public Works Department charges except 45—Civil Works—Imperial and 49—Irrigation.																
Bengal . . .	1,130	1,118	1,541	1,501	1,269	1,215	1,108	1,004	9,029	8,755	11,903	11,580	8,346	8,027	6,900	9,749
Bombay . . .	6,618	6,664	6,740	6,743	6,127	6,012	5,015	4,020	13,178	13,140	12,940	12,809	9,929	9,910	9,738	8,737
Madras . . .	1,573	1,539	1,716	1,650	1,523	1,502	1,276	1,255	11,962	11,669	13,803	13,388	10,452	10,699	10,193	10,370
Punjab . . .	5,236	5,098	5,425	5,396	6,058	6,086	6,067	5,980	12,113	11,738	11,760	11,585	10,656	10,503	9,571	9,234
United Provinces	1,844	1,929	1,753	1,779	2,010	2,056	1,330	1,364	9,672	9,367	10,690	10,567	10,300	10,095	9,602	9,398
45—Civil Works.																
Bengal . . .	1,532	1,489	1,184	1,168	880	858	703	781								
Bombay . . .	825	850	1,280	1,208	1,069	1,026	994	919								
Madras . . .	241	187	257	250	359	352	131	126								
Punjab . . .	640	624	577	557	413	398	276	252								
United Provinces .	804	737	870	682	697	630	352	200								
49—Irrigation.																
Bombay . . .	118	26	350	354	285	277	234	237								
Madras . . .	376	360	783	753	768	750	628	607								
Punjab . . .	9,528	9,264	7,405	7,112	4,614	4,244	3,650	3,386								
United Provinces .	1,254	1,215	1,029	1,035	999	937	749	657								

ANNEXURE VI.

List of added members.

BENGAL

Hon'ble Mr W A Ironside
Hon'ble Mr P C Mitter, C I E

BOMBAY

Mr P J Mead, C I E , I C S , Director of Industries
Hon'ble Mr N M Samarth

MADRAS

Hon'ble Mr N E Marjoribanks
Khan Bahadur Muhammad Habibullah, Sahib Bahadur

BIHAR AND ORISSA

Hon'ble Mr E H Walsh, C S I , I C S , Member of the Board of Revenue
Hon'ble Raja Rajendra Narayan Bhanj Deo, of Kanika

PUNJAB

Hon ble Mr H J Maynard C S I , I C S , Financial Commissioner
Raja Narendra Nath

UNITED PROVINCES

Hon'ble Sir H Verney Lovett, K C S I , I C S , Senior Member, Board of Revenue
Hon'ble Raja Sir Muhammad Ali Muhammad Khan K C I E , Khan Bahadur of Mahmudabad

ASSAM

Mr W J Reid, C S I , I C S , Commissioner, Surma Valley and Hill Districts
Hon ble Rai Ghanashyam Barua Bahadur

CENTRAL PROVINCES

Mr J T Marten, I C S
Mr M V Joshi

—	Imperial. 1913-14. Net grant.	Imperial. 1913-14. Expenditure.	Imperial. 1914-15. Net grant.	Imperial. 1914-15. Expenditure.	Imperial. 1915-16. Net grant.	Imperial. 1915-16. Expenditure.	Imperial. 1916-17. Net grant.	Imperial. 1916-17. Expenditure.	Provincial. 1913-14. Net grant.	Provincial. 1913-14. Expenditure.	Provincial. 1914-15. Net grant.	Provincial. 1914-15. Expenditure.	Provincial. 1915-16. Net grant.	Provincial. 1915-16. Expenditure.	Provincial. 1916-17. Net grant.	Provincial. 1916-17. Expenditure.
Public Works Department charges except 45—Civil Works—Imperial and 49—Irrigation.																
Bengal	1,130	1,118	1,541	1,501	1,269	1,245	1,108	1,094	9,029	8,755	11,908	11,580	8,346	8,027	9,900	9,749
Bombay	6,618	6,604	6,719	6,743	6,127	6,012	5,015	4,920	13,178	13,116	12,940	12,809	9,029	9,019	9,738	8,737
Madras	1,573	1,539	1,716	1,650	1,523	1,502	1,276	1,255	11,982	11,609	13,603	13,388	10,452	10,699	10,193	10,370
Punjab	5,236	5,008	5,425	5,396	6,058	6,086	6,067	5,950	12,113	11,738	11,760	11,585	10,656	10,503	9,571	9,231
United Provinces	1,814	1,929	1,753	1,779	2,010	2,056	1,330	1,361	9,672	9,367	10,690	10,567	10,390	10,095	9,602	9,398
45—Civil Works.																
Bengal	1,532	1,489	1,184	1,168	880	858	703	781								
Bombay	825	850	1,230	1,208	1,069	1,026	994	910								
Madras	241	187	257	250	359	352	131	126								
Punjab	640	624	577	557	413	398	276	252								
United Provinces	804	737	879	682	697	639	352	200								
49—Irrigation.																
y	118	26	350	351	285	277	234	287								
s	376	360	783	753	768	750	628	607								
b	9,528	9,264	7,405	7,112	4,614	4,241	3,650	3,386								
	1,254	1,215	1,029	1,035	909	937	719	657								

ANNEXURE VI.

List of added members.

BENGAL

Hon'ble Mr W A Ironside
Hon'ble Mr P C Mitter, C I E

BOMBAY

Mr P J Mead, C I E, I C S, Director of Industries
Hon'ble Mr N M Samarth

MADRAS

Hon'ble Mr N E Marjoribanks
Khan Bahadur Muhammad Habibullah, Sahib Bahadur

BIHAR AND ORISSA

Hon ble Mr E H Walsh, C S I, I C S, Member of the Board of Revenue
Hon'ble Raja Rajendra Narayan Bhanj Deo, of Kanika

PUNJAB

Hon'ble Mr H J Maynard C S I, I C S, Financial Commissioner
Raja Narendra Nath

UNITED PROVINCES

Hon'ble Sir H Verney Lovett, K C S I, I C S, Senior Member, Board of Revenue
Hon'ble Raja Sir Muhammad Ali Muhammad Khan, K C I E, Khan Bahadur of Mahmudabad

ASSAM

Mr W J Reid, C S I I C S, Commissioner, Surma Valley and Hill Districts
Hon ble Rai Ghanashyam Barua Bahadur

CENTRAL PROVINCES

Mr J T Marten, I C S
Mr M. V Joshi

ANNEXURE VII.

List of witnesses.

OFFICERS SERVING UNDER THE GOVERNMENT OF INDIA.

Hon'ble Mr. A. Sharp, C.I.E., Educational Commissioner with the Government of India.

Dr. H. H. Hayden, C.I.E., D.Sc., F.R.S., etc., Director, Geological Survey, India.

Mr. J. Mackenna, C.I.E., I.C.S., Agricultural Adviser to the Government of India.

Sir John H. Marshall, Kt., C.I.E., M.A., Litt.D., F.S.A., Director-General of Archæology.

Hon'ble Major-General, W. R. Edwards, C.B., etc., I.M.S., Director-General, Indian Medical Service.

Mr. G. S. Hart, C.I.E., Inspector-General of Forests.

BENGAL.

Name of Witness.	Name of Association (if any) represented.
Hon'ble Mr. J. H. Kerr, C.S.I., C.I.E., Chief Secretary to the Government of Bengal.	
Hon'ble Major-General W. H. B. Robinson, C.B., I.M.S., Surgeon-General with the Government of Bengal.	
Lieut.-Colonel J. T. Calvert, M.B., etc., I.M.S., Principal and Professor of Medicine, Medical College, Calcutta.	
Mr. J. C. K. Peterson, I.C.S., Director of Industries.	
Mr. L. Birley, C.I.E., I.C.S., formerly Secretary to the Government of Bengal, Revenue Department.	
Mr. L. S. S. O'Malley, C.I.E., I.C.S., Secretary to the Government of Bengal, General Department.	
Hon'ble Mr. W. C. Wordsworth, Director of Public Instruction.	
Dr. C. A. Bentley, M.B., D.P.H., Sanitary Commissioner, Bengal.	
Ven. W. K. Firminger, Archdeacon of Calcutta.	
Mr. C. P. Walsh, Secretary to the Government of Bengal, Public Works Department.	
Sir B. C. Mitter, Kt.	British Indian Association.
Mr. H. Langford-James	Bengal Chamber of Commerce.
Hon'ble Mr. W. E. Crum, Member of the Bengal Legislative Council.	Bengal Chamber of Commerce.
Mr. B. Chakravarti	Bengal Landholders' Association.
Hon'ble Sir R. N. Mukherji, K.C.I.E., Member of the Legislative Council, Bengal.	
Mr. Williams, Vice-Chairman, Port Commissioners, Calcutta.	
Hon'ble Kumar S. S. Roy, Member of the Legislative Council, Bengal.	Northern Bengal Zemindars' Association.

BENGAL—*contd*

Name of Witness	Name of Association (if any) represented
Mr J H Rundlett	Anglo-Indian Association
Hon ble Mr H P Duval, I C S , Legal Remembrancer and Secretary to the *Government of Bengal, Judicial Department*	
Rai Srinath Pal Bahadur	Bengal National Chamber of Commerce
Babu Iswar Das Jalan	Marwari Association
Mr B L Mitter	National Liberal League
Raja Manilal Singh Ray of Chakdighi	
Sir H Farrington, Bart , Conservator of Forests	
Khan Sahib Abdul Rahim	Central National Muhammadan Association
Hon ble Sir N R Sarkar, Kt , M D Member of the Legislative Council, Bengal	
Maulvi Amir ud-din Ahmad	Provincial Muhammadan Association Dacca
Rev Dr G Howells Calcutta University	
Babu H N Dutt	Provincial Congress Committee, Calcutta
Hon'ble Raja Hrishikesh Laha, C I E , Member of the Legislative Council, Bengal	
Hon ble Maulvi A K Fazl ul Haq, Member of the Legislative Council Bengal	
Hon ble Mr Amin ur Rahman, Member of the Legislative Council, Bengal	
Hon ble Babu Surendra Nath Ray Member of the Legislative Council, Bengal	
Mr N K Basu	Indian Association
Hon'ble Mr F A A Cowley, Secretary to the Government of Bengal, Irrigation and Marine Departments	
Mr T F Welby	European Association
Hon ble Nawab Saiyid Nawab Ali Chaudhuri C I E , Additional Member of H E the Viceroy's Legislative Council	
Rai J N Mazumdar Bahadur	
Hon ble Mr J Donald C I E I C S , Secretary to the Government of Bengal Finance Department	
Saiyid Muhammad Masih	Bengal Presidency Moslem League

BOMBAY

Name of Witness	Name of Association (if any) represented
Hon'ble Mr J G Covernton, C I E , Director of Public Instruction	
Col W E Jennings, M D C M , D P H F C P S , I M S , Surgeon General with the Government of Bombay	
Lt Col S C Evans, M D , C M , I M S Obstetric Physician, J H Hospital and Professor of Midwifery Grant Medical College	
Mr F St J Gebbie, Secretary to the Government of Bombay, P W D (Irrigation Branch)	
Mr R M Maxwell, I C S Deputy Commissioner of Salt and Excise, Northern Division	

BOMBAY—*contd.*

Name of Witness.	Name of Association (if any) represented.
Hon'ble Mr. R. G. Pratt, I.C.S., Commissioner, Northern Division.	
Dr. Harold H. Mann, D.Sc., Director of Agriculture.	
Mr. F. G. H. Anderson, I.C.S., Settlement Commissioner, Poona.	
Hon'ble Mr. C. V. Mehta, Additional Member of the Bombay Legislative Council.	
Mr. N. M. Joshi	Servants of India Society, Bombay.
Mr. T. R. D. Bell, Chief Conservator of Forests.	
Mr. Bhulabhai J. Desai, Advocate, High Court, Bombay.	
Mr. R. B. Ewbank, I.C.S., Registrar, Co-operative Societies, Poona.	
Sardar Vishnu Narayan Mutalik . .	Inamdars and Sardars of the Deccan.
Hon'ble Mr. M. A. Jinnah, Bar-at-Law, Additional Member of H. E. the Viceroy's Legislative Council.	
Hon'ble Rao Sahib Hiralal Desaibhai Desai, Member of the Legislative Council, Bombay.	
Hon'ble Mr. V. K. Patel, Additional Member of H. E. the Viceroy's Legislative Council.	
Mr. R. G. Pradhan, Editor, "Bharat Sevak" Nasik.	
Rao Thakurram P. Kapilram Bahadur, *ex*-President, Surat Municipality.	
Hon'ble Mr. Raghunath Purushottam Paranjpye, Member of the Legislative Council, Bombay.	
Mr. Subedar	Home Rule League.
Mr. Umar Sobhani	Home Rule League.
Mr. Jamnadas Dwarkadas	Home Rule League.
Mr. B. G. Horniman	Home Rule League.
Mr. S. G. Banker	Home Rule League.
Rao G. K. Chitale Bahadur, President, District Local Board, Ahmednagar.	
Hon'ble Rao V. S. Naik Bahadur, Member of the Legislative Council, Bombay.	
Rao S. K. Rodda Bahadur, President, District Local Board, Dharwar.	
Pandit R. Chikodi, Editor, "Vibhakar," Belgaum.	
Mr. H. G. Limaye, Professor of History and Political Science, Fergusson College, Poona, Fellow of the Bombay University.	
Rev. Canon D. L. Joshi	Indian Christian (Protestant) Association.
Mirza Ali Muhammad Khan, Solicitor, High Court, Bombay.	Muhammadan Community.
Hon'ble Sir Fazulbhoy Currimbhoy, Kt., C.I.E., Additional Member of H. E. the Viceroy's Imperial Legislative Council.	

MADRAS.

Hon. Maj.-Genl. G. G. Gifford, C.S.I., I.M.S., Surg.-Genl. with the Govt. of Madras.

Name of Witness	Name of Association (if any) represented
Mr C R H Schmidt, Inspector General of Registration	
Mr C A Innes, I C S, Director of Industries	
Mr G A D Stuart, I C S, Director of Agriculture	
Mr T R Hemingway, I C S, Registrar of Co-operative Credit Societies	
Hon ble Mr C G Todhunter, I C S, ex Commissioner of Separate Revenue and Excise	
Hon ble Mr W J J Howley, Secy to the Govt of Madras, Public Works Department	
Hon ble Mr L E Buckley, C S I, I C S Member of the Board of Revenue Settlement, etc	
Hon ble Mr H S Duncan, Director of Public Instruction	
Mr S Cox, Conservator of Forests	
Hon ble Rao Bahadur B N Sarma Avargal	Madras Mahajan Sabha and Madras Provincial Congress Committee
M R Ry T V Venkatarama Ayyar Avargal	Madras Mahajan Sabha and Madras Provincial Congress Committee
M R Ry Diwan Bahadur L A Govindaraghava Ayyar Avargal	Madras Mahajan Sabha and Madras Provincial Congress Committee
M R Ry G A Natesa Ayyar Avargal	Madras Mahajan Sabha and Madras Provincial Congress Committee
M R Ry T V Gopalaswami Mudaliar Avargal	Madras Mahajan Sabha and Madras Provincial Congress Committee
M R Ry N Subba Rao Pantulu Garu, B L	Andhra Provincial Congress Committee
M R Ry C P Ramaswami Ayyar Avargal, B L	
M R Ry A Rangaswami Ayyar Avargal, B L	
Hon ble Diwan Bahadur M Ramachandra Rao Pantulu Garu, B L, Member of the Legislative Council Madras	
M R Ry Diwan Bahadur D Seshagiri Rao Pantulu Garu, B L	
M R Ry Rai Sahib A P Patru Garu B A B L	
The Hon ble Rao Bahadur V K Ramanuja Achariyar Avargal, Member of the Legislative Council, Madras	
The Raja of Kollengode	Kerala Janmi Sabha
Mr H M P Rae	Madras Branch of the European Association
The Hon ble Sir Gordon Fraser	Madras Chamber of Commerce
Mr F C L Worke	Madras Chamber of Commerce
The Hon ble Yakub Hasan Sahib Bahadur	South Indian Chamber of Commerce
Khan Bahadur Muhammad Abdul Kuddas Badshah Sahib Bahadur	South Indian Chamber of Commerce
C Abdul Hakim Saheb Bahadur	South Indian Chamber of Commerce
M R Ry A Rangaswami Ayyangar Avargal B L	South Indian Chamber of Commerce
M R Ry S Venkatachalam Chettiyar Avargal	South Indian Chamber of Commerce
Mr M D Devadas, Bar at-Law	
The Hon ble Yakub Hasan Sahib Bahadur	Madras Presidency Moslem League
Khan Bahadur Muhammad Abdul Kuddas Badshah Sahib Bahadur	Madras Presidency Moslem League
Maulana Abdus Sobhan Sahib Bahadur	Madras Presidency Moslem League

MADRAS—*concld.*

Name of Witness.	Name of Association (if any) represented.
M. Md. Usman Sahib Bahadur	Honorary Secretary, Muthialpet Muslim Anjuman, Madras.
Mr. H. G. Stokes, C.I.E., I.C.S., Secretary to the Government of Madras, Local and Municipal Department.	
M. R. Ry. Diwan Bahadur Keshava Pillai	Madras Presidency Association.
M. R. Ry. Pakeer Sami Pillai	Madras Presidency Association.
M. R. Ry. Salla Guruswami Chetti	Madras Presidency Association.
M. R. Ry. Chakro Chetti	Madras Presidency Association.
The Rt. Rev. E. H. M. Waller, Bishop in Tinnevelly and Madura.	
Lt.-Col. C. H. Lett-Palk, I.C.S., Inspector-General of Prisons.	
Dr. Krishnaswami Aiyar.	
Rev. W. Meston, B.D.	President, Educational Council of South India.

BIHAR AND ORISSA.

Name of Witness.	Name of Association (if any) represented.
The Hon'ble Mr. E. Lister, C.I.E., I.C.S., Secretary to the Government of Bihar and Orissa, Revenue Department.	
The Hon'ble Mr. T. S. Macpherson, I.C.S., Legal Remembrancer and Secretary to the Legislative Council, Bihar and Orissa.	
Lt.-Col. J. C. S. Vaughan, M.B., I.M.S., Offg. Inspector-General of Civil Hospitals, Bihar and Orissa.	
Hon'ble Mr. R. M. Watson-Smyth, Member of the Legislative Council, Bihar and Orissa.	Indian Mining Association.
Hon'ble Mr. S. K. Sahai, Bar-at-Law, Member of the Legislative Council, Bihar and Orissa.	
Mr. G. E. Fawcus, Director of Public Instruction, Bihar and Orissa.	
Babu Ram Lal Sinha	Bengali Settlers' Association.
Mr. Sachhidananda Sinha	Bihar Provincial Association.
Babu Rajendra Prasad	Bihar Provincial Association.
Hon'ble Maulvi Saiyid Nur-ul-Hasan, Member of the Legislative Council, Bihar and Orissa.	
Babu Ganash Datta Sinha	Bihar Landholders' Association.
Babu Ram Gopal Singh Chaudhri	Bihar Landholders' Association.
Hon'ble Mr. Pringle Kennedy, Member of the Legislative Council, Bihar and Orissa.	
Hon'ble Khwaja Muhammad Nur, Khan Bahadur, Member of the Legislative Council, Bihar and Orissa.	
Hon'ble Mr. Mazhar-ul-Haq, Bar-at-Law, Additional Member of H. E. the Viceroy's Legislative Council.	
Mr. Yunus	Bihar Provincial Moslem League.
Khan Bahadur Sarfraz Husen Khan	Bihar Provincial Moslem League.
Hon'ble the Rev. Dr. A. Campbell, D. D., Member of the Legislative Council, Bihar and Orissa.	
Hon'ble Rai Purnendu Narayan Singh Bahadur, Member of the Legislative Council, Bihar and Orissa.	

Name of Witness	Name of Association (if any) represented.
Babu Suresh Chandra Chakravarti	Orissa Association.
Mr J A Hubback, I C S, Officer on Special Duty	
Hon'ble Rai Dwarika Nath Bahadur, Member of the Legislative Council, Bihar and Orissa	
Babu Shashibhusan Nath	Utkal Union Conference.
Rev J G Dann, Missionary	
Mr N C Sirkar	Indian Mining Federation.
Hon'ble Babu Gopabandhu Das, Member of the Legislative Council, Bihar and Orissa	
Hon'ble Babu Bishun Prasad, Member of the Legislative Council, Bihar and Orissa	
Hon ble Mr J D Sifton, I C S, Secretary to the Government of Bihar and Orissa, Finance Department	
Mr F Trafford, Conservator of Forests, Bihar and Orissa	
Hon'ble Mr J G Jennings, Vice-Chancellor, Patna University	
Hon'ble Mr D Weston, I C S Commissioner of Excise and Salt Bihar and Orissa	
Hon'ble Mr J V Jameson	Bihar Planters' Association.

PUNJAB

Name of Witness	Name of Association (if any) represented.
Hon'ble Mr L French, I C S, Officiating Chief Secretary to the Government of the Punjab	
Hon'ble Mr J A Richey, Director of Public Instruction	
Hon'ble Mr O F Lumsden, I C S, Secretary to the Government of the Punjab, Finance Department	
Col E L Ward, I M S, Inspector General of Prisons	
Col R C MacWatt, C I E, M B, F R C S, Inspector General of Civil Hospitals	
Hon'ble Mr H D Craik, I C S, Additional Secretary to the Government of the Punjab	
Hon'ble Mr D W Aikman, C I E, Chief Engineer, Public Works Department (Roads and Buildings)	
Mr E A A Joseph, Ex Director of Agriculture	
Mr W F Holms, C I E, Chief Engineer, Public Works Department (Irrigation)	
Lt Col D W Sutherland, C I E, M D, C M, I M S, Principal, Medical College, Lahore	
Mr A C Woolner, Registrar, Punjab University	
Mr R McIntosh F S I, Conservator of Forests	
Hon'ble Rai Bahadur Bakshi Sohan Lal, Member of the Legislative Council, Punjab	
Hon'ble Mr C A H Townsend, I C S, Director of Industries	
Rai Sahib Ruchi Ram Sahni, Government College, Lahore	
Dr Khalifa Shuja ud din	Provincial Moslem League.

Name of Witness.	Name of Association (if any) represented.
Mirza Bashir Ahmad	Ahmadiya Community.
Bhai Shivaram Singh	Khalsa Diwan.
Mian Haq Nawaz	Punjab Moslem Association.
Lala Dun Chand, Pleader, Municipal Commissioner.	Indian Association.
Hony. Major Malik Sir Umar Hayat Khan, Tiwana, K.C.I.E., M.V.O., of Kalra.	Punjab Moslem Association.
Mr. C. M. King, C.I.E., I.C.S., Commissioner, Lahore Division.	
Rai Bahadur Sundar Das, Inspector of Schools.	
Chaudhri Zafarullah Khan	Ahmadiya Community.

UNITED PROVINCES.

Name of Witness.	Name of Association (if any) represented.
Hon'ble Mr. G. G. Sim, I.C.S., Secretary to the Government of the United Provinces, Finance Department.	
Hon'ble Mr. A. C. Chatterjee, I.C.S., Secretary to the Government of the United Provinces, Revenue Department.	
Mr. J. A. H. Way, Commissioner of Excise.	
Hon'ble Mr. S. P. O'Donnell, C.I.E., I.C.S., Chief Secretary to the Government of the United Provinces.	
Hon'ble Col. C. MacTaggart, C.I.E., I.M.S., Inspector-General of Civil Hospitals, United Provinces.	
Mr. G. B. Lambert, I.C.S., formely Inspector-General of Registration, United Provinces.	
Mr. A. W. E. Standley, Secretary to the Government of the United Provinces, Public Works Department, Irrigation Branch.	
Mr. P. H. Clutterbuck, Chief Conservator of Forests, United Provinces.	
Mr. Saiyid Nabiulla.	
Hon'ble Mr. H. R. C. Hailey, C.I.E., I.C.S., Director of Land Records and Agriculture, United Provinces.	
Shekh Habibullah	British Indian Association.
Thakur Jagannath Bakhsh Singh	British Indian Association.
Hon'ble Nawab Muhammad Abdul Majid, C.I.E., Bar-at-Law.	Agra Province Zemindars' Association.
Raja Raghu Prasad Narayan Singh	Agra Province Zemindars' Association.
Hon'ble Pandit Madan Mohan Malaviya	Provincial Congress Committee.
Hon'ble Pandit Motilal Nehru	Provincial Congress Committee.
Hon'ble Raja Sir Rampal Singh, K.C.I.E., Additional Member of H. E. the Viceroy's Legislative Council.	
Hon'ble Mr. C. Y. Chintamani, Member of the Legislative Council, United Provinces Editor of "The Leader", Allahabad.	
Rev. Dr. Garfield Williams.	
Hon'ble Saiyid Wazir Hasan, B.A., LL.B., Advocate, Judicial Commissioner's Court, Oudh; Member of the Legislative Council, United Provinces.	

Name of Witness	Name of Association (if any) represented
Hon'ble Saiyid Raza Ali, B A, LL B, Vakil of the High Court, Allahabad	All India Moslem League and Provincial Moslem League of the United Provinces
Mr F C De La Fosse, Director of Public Instruction	
Capt D R Ranjit Singh, I M S	
Mr H Stanley Jevons, Professor of Civil Economics in the University of Allahabad	
Mr Govind Ballabh Pant, Vakil, Municipal Commissioner, Kashipur (District Naini Tal)	Kumaon Association

ASSAM

Name of Witness	Name of Association (if any) represented
The Hon'ble the Chief Commissioner	
Hon'ble Mr J E Webster, C I E, I C S, Chief Secretary to the Chief Commissioner	
Hon'ble Mr A W Botham, C I E, I C S, Second Secretary to the Chief Commissioner	
Rai Sahib Padmanath G Barua	Ahom Association, Tezpur
Hon'ble Mr H Millar, C I E	Assam Valley Branch, Indian Tea Association
Hon'ble Col W Mason	Surma Valley Branch, Indian Tea *Association*
Mr J McSwiney, I C S, Director of Land Records and Agriculture	
Babu Nabin Chandra Bardoloi	Assam Association
M Abdul Rahim Chaudhuri	Surma Valley Muhammadan Zemindars' Association
Maulvi Derajuddin	Assam Valley Muhammadan Association
Mr Kshitish Mohan Das	People's Association, Sylhet

CENTRAL PROVINCES

Name of Witness	Name of Association (if any) represented
Hon'ble Mr H A Crump, C S I, I C S Financial Commissioner	
Hon'ble Mr A I Mayhew, Director of Public Instruction	
Mr A E Nelson, I C S, Commissioner of *Excise*	
Mr A E Mathias, I C S, Registrar Co-operative Credit Societies	
Mr M Hill C I E, F L S, Chief Conservator of Forests	
Rao R N Mudholkar Bahadur, C I E	
Hon'ble Col Green, I M S, Inspector-General of Civil Hospitals	
Rai D N Chaudhuri Bahadur, Chairman, District Council, Raipur	
Hon'ble Mr S B Tambe LL B, Member of the Legislative Council, Central Provinces	
Hon'ble Rao Sahib R V Mahajani, LL B, Member of the Legislative Council, Central Provinces	
Rao K G Gamle Bahadur	
Mr V D Kali	C P and Berar Graduates' Association
Hon'ble Rao N K Kelkar Bahadur Member of the Legislative Council, Central Provinces	Co-operative Federation

CENTRAL PROVINCES—*contd.*

Name of Witness.	Name of Association (if any) represented.
Mr. N. R. Alekar	C. P. Provincial Congress Committee.
Mr. M. S. Aney	Berar Congress Committee.
Mr. H. D. Coggan	C. P. and Berar Mining Association.
Dr. H. S. Gour, LL.D., President Municipal Committee, Nagpur.	
Mr. G. L. Corbett, I.C.S., Director of Industries, C. P.	
Rev. J. F. MacFadyen, Offg. Principal, Hislop College.	
Hon'ble Mr. G. S. Khaparde, Additional Member of H. E. the Viceroy's Council.	
Hon'ble Mr. F. S. A. Slocock, C.I.E., I.C.S., Chief Secretary to the Chief Commissioner.	
Mr. D. Clouston, B.Sc., Director of Agriculture.	

AT DELHI.

Mr. K. C. Roy, Associated Press of India.

FOURTH DESPATCH ON INDIAN CONSTITUTIONAL REFORMS (DIVISION OF FUNCTIONS).

No 3 of 1919

GOVERNMENT OF INDIA

HOME DEPARTMENT

REFORMS

To

The Right Honourable EDWIN MONTAGU,

His Majesty's Secretary of State for India

Simla, April 16, 1919

Sir,

We have the honour to lay before you our views upon the enclosed report which was presented to us on March 10 1919, by the committee appointed under the chairmanship of Lord Southborough, in accordance with the proposals made in para 238 of the Report on Indian constitutional reforms, for the purpose of advising upon the demarcation of the field of provincial administration and the matters within that field which should be transferred to the control of ministers

2 Some of the difficulties, which the committee necessarily encountered in fulfilling their task were apparent to us at an early *stage of the cold weather deliberations* The *functions discharged* by the Government in India cover vast areas of the life of the people, to an extent which the outside observer finds it difficult to appraise They are in consequence so multifarious and diverse that it is far from easy to group them into categories on any scientific plan for distribution among governmental authorities which will no longer be so closely inter dependent as the existing organization The work *of government varies from those functions in which it is peculiarly* identified with the special agency dscharging it to those in which many departments or services are engaged or in which, once the accepted policy has been embodied in legislation, effect is given to it by decisions of the courts of law The committee's demarcation has accordingly been based upon a heterogeneous collection of func*tions some of which differ widely in kind from others*, *but most of* them if not quite all, are clearly recognizable by the titles assigned to them In pursuance of their instructions the committee have, in the first place, divided these functions broadly between all-India subjects and provincial subjects In a few instances they have halved a particular subject between the central and the provincial *Governments* In *other cases adopting the suggestion made in para* 238 of the Report they have declared a given subject provincial "subject to legislation by the Government of India" They have then picked out from the provincial list the matters which they considered suitable for transfer and have stated against each of these any special reservations which they recommend In section II,

part 2, of their report they have discussed the powers of control by the Government of India in relation to provincial subjects; and in section III, part 2, they have examined the powers which the Governor in Council should retain in relation to transferred subjects. In connection with the last matter they have inquired further what powers of control should remain with the Governor himself.

General principles.

3. During the course of the past few months we have on more than one occasion considered the effect upon the Government of India's responsibilities of the proposal to mark off certain subjects as provincial. The key to the position is, we think, to be found in the concluding portion of the formula in para. 189 of the Report, "This involves at once giving the provinces the largest measure of independence, legislative, administrative and financial, of the Government of India which is compatible with the due discharge by the latter of its own responsibilities." It thus becomes of importance to ascertain what the proper responsibilities of the Government of India in future will be. We accept as generally accurate the description and explanation of the central control hitherto exercised, which is given in paras. 117-119 of the Report. We take our stand firmly upon the cardinal proposition that no government in India can remain free on the one hand of control by Parliament and on the other of control by a legislature in India. In order to examine the sphere of those two distinct and in some degree exclusive methods of control, we have to relate them to the fundamental feature of our whole structure, the two halves of the future provincial Government.

4. It follows that that half of the provincial Government, which will in future consist of ministers responsible to the legislative councils, must in the largest measure possible be free from superior official control. Such control in their case can be justified only by the necessity, touched upon in para. 12 of the despatch of March 5, of securing the paramount authority of Parliament, which will obviously include those matters for which under the scheme the Government of India will remain responsible to Parliament. It follows that some power of intervention must be provided in order to safeguard the subjects which will be retained directly in the Government of India's hands, and, in addition to these, such other matters as must continue to be regulated according to the wishes of Parliament. In para. 11 of our memorandum of November 29, 1918, which forms Annexure II to the committee's report, we suggested that the exercise of the central Government's powers to intervene in transferred subjects should be specifically restricted to the following purposes:—(1) to safeguard the administration of the Government of India subjects, (2) to secure uniformity of legislation where such legislation is considered desirable in the interests of India or of more than one province, (3) to safeguard the public services and (4) to decide questions which affect more than one province; and we thought that the proposed restrictions should be effected by empowering the Secretary of State to make rules restricting to such specified grounds the

control exercised by the central Government under section 45 over provincial Governments in the case of transferred subjects The committee's proposal is stated in para 17 of their report In substance they accept the four grounds of intervention which we proposed, but by their method of treating the question of legislative control as a distinct matter, regarding which they make detailed proposals, and also by treating separately the questions affecting the public services, they have reduced the apparent number of the grounds of intervention from four to two They also re-state the last ground of intervention in the list in such a way as to provide an opportunity for agreement between the two provinces concerned before the intervention of the Government of India takes effect As we shall explain hereafter (para 12 below) we prefer our own method of dealing with provincial legislation on transferred subjects to the alternative proposed by the committee We have no hesitation in accepting all their remaining proposals, and we accept also the amendment which the committee propose for the purpose of giving effect to them in para 22 of their report We agree that the Governor-General in Council should be the sole judge as to the applicability of the statutory rules in any given case, and we draw your attention to the emphasis which the committee lay on the need for making the rules subject to effective parliamentary control We have only to add that if the Government of India are henceforth to intervene in transferred subjects only on specified grounds it seems to us inevitably to follow that the Secretary of State can only do so likewise The delicacy of inviting Parliament to agree to set any bounds to the exercise of its authority was touched upon in para 291 of the Report It seems to us, however that the statutory withdrawal of the Government of India's authority from transferred subjects, except on specified grounds, must be definitely recognized as exempting them except on the same aforesaid grounds from any responsibility in respect of such matters to the Secretary of State and Parliament Transferred subjects in a word must henceforth be recognized as resting in the main upon a new source of power

5 The position as regards reserved provincial subjects is more difficult, and before examining the committee's handling of it we may explain the conclusions to which our own investigations have led us The provinces have in the past been administering some matters, as for example, customs and income-tax, in which the predominant interests of the Government of India are beyond question They have also done much work on behalf of the Government of India in such matters as the railways and the post office In respect of these functions we may conveniently describe the local Governments as acting in the capacity of agents of the Government of India Beyond these matters, however, there has been a wide category of subjects in which no attempt has hitherto been made to measure either the interest or the inherent authority of the provincial Governments In the case of some of them, such as the police and criminal justice, there is no denying the close interest inevitably felt by the central Government which is responsible for the security of India In other cases, the need for maintaining India's external trade, or of securing uniformity in matters affecting the interests of commerce or industry between one part of India and another, have

operated to give the central Government a close concern in certain other matters in the provinces. In other cases again the distribution of power between central and provincial Governments has rested mainly upon the criterion of convenience. But the effect of section 45 of the Government of India Act, 1915, which enacts that "every local Government is under the superintendence, direction and control of the Governor General in Council in all matters relating to the government of its province," has been to obscure whatever differences of kind can be traced in all these various cases; and it therefore becomes a matter of peculiar difficulty to define the measure of acknowledged authority which the official provincial Governments should in any specified case in future enjoy. In the past also the purely administrative control provided by section 45 has been reinforced by, or rather concealed behind, the close control over expenditure enforced by the various codes which resulted both from the system of divided heads of revenue and from the peculiar responsibility felt by the central Government and the Secretary of State for economy in administration. With the transfer of much of this responsibility most of these financial restraints will disappear, and the position will undoubtedly be easier; but in so far as they have been used to mask the administrative control their removal makes it only the more important to decide the principles on which administrative control should in future be exercised. We agree with the committee with in this respect there should be a difference between what we may call agency subjects and all other subjects which are provincial without being also transferred. In respect of the former it clearly must be in the competence of the principal to vary or even to withdraw the authority delegated to his agent.

6. In the case of the remaining subjects the relevant considerations are more complicated. It is, in the first place, clearly desirable to give the provinces a greater field of action than they have enjoyed in the past. Nor would we be inclined to measure their enfranchisement by restricting it to "getting rid of interference in minor matters, which might very well be left to the decision of the authority which is most closely acquainted with the facts" (Report, para. 213). We think that more than this is required, if only to enable the official provincial Governments to move with reasonable freedom in relation to their legislatures. At the same time, however, we accept fully and without qualification the proposition that an official provincial government must remain amenable to the Government of India and the Secretary of State and Parliament in matters in respect of which it is not amenable to its legislature. The scheme of provincial dyarchy to which we have declared our adherence in our despatch of March 5 does not contemplate that in reserved subjects the provincial Governments shall be amenable to their legislatures. On the contrary they are to remain responsible to Parliament for the good administration of such matters. Unquestionably, however, their administration of those subjects will in future be conducted under the eyes of a legislature which is more representative and will have further opportunities of advice and criticism than the legislative councils of the past have enjoyed. Although therefore we have proposed

certain modifications of those features of the Report's scheme on which the committee's arguments rest, we nevertheless agree with them that while the control of the Government of India over subordinate official governments in reserved matters must remain legally unfettered it is proper that it should in future be exercised with regard, among other factors, to the question how far the action of the local Government is in accordance with the wishes of its legislature The assent of the legislature would of itself be no reason why the Government of India should allow a local Government's proposals to which it saw strong objection, nor, would the dissent of the legislature in any reserved subject be of itself a reason why the Governor General in Council should withhold his sanction to the provincial proposal, but in either case the attitude of the legislature would be one factor in the situation We agree therefore to the committee's proposal to recognize it as such by a declaration of policy, enjoining the Government of India in the exercise of their future control of reserved subjects to have regard to the general purpose of the Act as declared in its preamble It follows that we accept the proposals made in paras 22 and 23 of the report, and we draw your attention and that of Parliament to the committee's remark at the conclusion of para 23 that the declaration of policy which they there suggest will likewise affect the exercise of control by the Secretary of State on behalf of Parliament

7 We agree entirely with the committee's remarks in para 24 They here go to the root of this difficult problem of demarcation The real difference of which we have to take account is between the matters which are to be handled by responsible ministers and those matters of which the official Governments amenable to Parliament will be in charge The process of transfer practically removes a subject from the direct cognizance of Parliament to that of an Indian legislature The real dividing line is between transferred subjects on the one hand, and reserved and all-India subjects on the other So long as a provincial subject is not transferred, the precise limitation of its boundaries is not a matter of great practical importance, but as soon as the subject becomes transferred and the Government of India's control can only be exercised for certain statutory purposes the question of definition acquires a wholly new importance The labelling of a subject as provincial is to be regarded as a convenient means of giving effect to the policy of the Report rather than as the beginning of a federal system In making their present proposals for provincial subjects the committee disclaim any intention of drawing the line which will be necessary or of defining what protection will be required for the central authority, when reserved subjects are hereafter transferred We agree that such definition can only be decided if and when the question of transfer arises

8 With reference to para 25 of the report we may explain that our proposal to rest the demarcation mainly upon budget heads was made before we were made aware of the committee's method of classifying subjects or the explanation given in para 24 of their report It would in any case have been necessary, we think, to supplement the list of budget heads by some categorical interpreta-

tion of the second formula ("subjects which must be administered centrally") which occurs in the memorandum forming annexure III of the report; and for that purpose we are content, indeed we prefer to rely on the committee's list.

9. As regards para. 26 of the report all we need now say is that the various departments of the Government of India will undertake to prepare the legislation needed to give effect to the policy of delegation of control. The material received from the local Governments and already collected from the departments should greatly facilitate the recension of the statute book; and we agree that the position will thereby be simplified and the new system will start upon a better footing. We propose to place an officer on special duty for the purpose, and to initiate the necessary legislation at the earliest possible moment.

10. As regards the committee's proposals in para. 27 it seems to us that, while instructions to the Governor are appropriate for the purpose of regulating his relations to the ministers and therefore of providing a means for giving effect to the Government of India's intervention in transferred subjects, there is no justification in the case of reserved subjects for laying the personal responsibility upon the Governor; nor would such a course be in keeping with our wish to maintain the corporate responsibility of the Governor and his Council. The proper course in our opinion would be for the Government of India to continue the existing procedure and to give orders in reserved subjects when necessary to the Governor in Council.

Provincial legislation.

11. We come now to the proposals for the control of provincial legislation. The general aim of the committee has been to leave the provinces free to legislate, without previous sanction, upon the provincial subjects, whether reserved or transferred, except where these are specially made "subject to Indian legislation." At the same time they propose to retain most of the restrictions imposed by the existing sec. 79 (3) of the Act, to which they add three further provisions. These deal with cases where the proposed provincial Bill affects powers expressly reserved by law to the Governor General in Council, or amends any provision of certain all-India Acts included in a schedule which they suggest, or amends any clause of an Act passed by the Indian legislature which by the terms of the Act itself is similarly protected. Over and above these provisions the committee suggest that certain types of provincial legislation, though not subject to previous sanction, should be compulsorily reserved by the Governor for the assent of the Governor General; and that in another class of cases it should be optional with the Governor to reserve provincial legislation for the same sanction. Finally they propose a category of matters not regarded as "subject to Indian legislation," in which the central legislature should nevertheless have power to legislate; it being open to it in doing so to prescribe that a provincial council shall not be competent to amend such a law without obtaining previous sanction. The committee have put forward a redraft of sec. 79 designed to give effect to their intentions,

and have also thrown their suggestions regarding reserved Bills and the procedure attendant on reservation into draft form

12 We appreciate the aim of the committee to reduce so far as possible the categories of provincial legislation which will require previous sanction but as you will have gathered from our despatch of March 22, 1919, and the memorandum therewith forwarded, we are anxious to see the procedure which they suggest if possible simplified In the first place we feel some doubt about the propriety of an arrangement, which makes certain provincial subjects 'subject to Indian legislation' We take the broad view that administrative and legislative powers must really reside in the same authority, and that any such apparent diversity from this principle, as may be thought discernible in the Indian statute book, will be found on examination to be due to the fact that the administrative powers enjoyed by the authority which is not competent to legislate are really only delegated So long as the entire administration of British India was held together in one whole by the provisions of sec 45 of the Government of India Act, 1915, an arrangement by which definite powers were conferred by an Indian Act upon the provincial Governments involved no embarrassment But with the change of system a new situation will be created, and the committee s proposal, which applies equally to reserved and transferred subjects, will in our judgment give rise to difficulty So far as the reserved subjects are concerned we lay no special stress upon the point, because, as the committee themselves recognize in para 24 of their report the Government of India s control will in these cases remain unrestricted to any special purposes We are prepared, therefore, to accept their solution, which at all events serves to bring out clearly the ultimate dependence of the provincial Governments in their official aspect upon superior authority But in application to transferred subjects we cannot think it a suitable arrangement A technical argument might be based on the first head note to the all India list, read in conjunction with para 17 of the committee's report, to the effect that the Government of India would have an uncontrolled right of directing the administration of any transferred subject in respect of which there was an Act upon the Indian statute book That is a position which we have no wish to adopt But what we do feel is that the committee's proposal is inconsistent with the measure of definite responsibility which it is our aim to give to ministers We do not think that ministers will feel themselves fully seized of matters in respect of which they cannot without superior sanction secure legislation, nor do we like an arrangement which throws the main responsibility on the Government of India for legislating for certain matters in the provinces, while the execution of *their policy is in the hands of agents whom they cannot appropriately* control Our own purpose was to limit the intervention of the central legislature to clear cases of necessity We do not share the committee's fear that our proposed power of legislating in the interests of essential uniformity will impede the growth of a convention of non interference On the contrary our desire to establish such convention will tend to make us strictly watchful against any unnecessary uniformity of treatment We regard the committee's

proposal to subject to Indian legislation certain matters in the transferred list as clearly going beyond what the requirements of uniformity would justify. We recommend therefore that in the case of all the transferred subjects the provision "subject to Indian legislation" should be omitted: and that as is proposed in para. 212 of the Report, the right should be recognized of the Indian legislature to legislate for any provincial matter in respect of which uniformity of legislation is desirable. This modification will make it possible to simplify the committee's scheme of legislation in other respects as well.

13. Our second change has reference to the schedule of Acts which the committee propose to attach to sub-clause (*j*) of their draft. We are not sure upon what principle this has been compiled. It comprises the chief codes, and the chief laws relating to business and property, assurance, interpretation, provident funds, ports and lunatics. With a certain reservation in the case of ports, it may be said that all these are all-India matters, the regulation of which by a provincial legislature is already subjected to previous sanction by the terms of the committee's proposed sub-clause (*h*). We feel no doubt, however, that the intention of their sub-clause (*j*) is to afford a higher measure of protection to the scheduled Acts than would be provided by the more general terms of their sub-clause (*h*). Our difficulty rather is that we cannot find any sure ground on which to discriminate the treatment of the Acts proposed for inclusion in the schedule from many others which merit equal protection. Several important Acts forming parts of the criminal law of the country are not mentioned; and there are many others which occur to us in connection with the law of status and civil rights, property, business and commerce, which equally ought to be maintained upon a uniform basis. While therefore we agree with the committee's idea of defending a definite field of all-India legislation from alteration by the provincial legislatures without previous sanction, we are not prepared to accept their proposed schedule as limiting the field; and as will be apparent to you from sub-clause (*i*) which we have included in the redraft of sec. 79, appended to our second despatch, we should prefer to define the Indian Acts in question by rules to be made by the Governor General in Council.

14. We take the same view of the committee's proposals for the reservation of Bills (paras. 36-38) as we have already expressed concerning the proposals discussed in para. 12. We agree with their purpose and appreciate the advantages of restricting the cases where previous sanction will be required to provincial legislation: but we cannot help thinking that their end can be attained by simpler means. We have examined this question further since our despatch of March 22, 1919, was written. We see no need, in the first place, for a two-fold category of reservation powers. The effect of compulsory reservation (whether prescribed in the statute itself as the committee suggest, or by rule as we were provisionally disposed to think) would be to transfer the power of assent in the cases specified from the Governor's hands to those of the Governor General. We note indeed that the committee suggest that the Governor general should have power to direct the Governor not to reserve a Bill; but (to waive

the question whether this extension of the personal powers of the Governor General would be expedient) we do not understand how the Governor General would be in a position to give such a direction until the Bill was before him, and we think that the provision for it would be largely inoperative We do not think that the Governor's powers either need or should be circumscribed as the committee suggest As we shall show you in due course (*vide* paras 19, 58 and 108, and 30 below) our proposals for dealing with three, *viz*, (*a*), (*b*) and (*d*) out of the four categories of cases in which the committee recommend compulsory *reservation are rather different from the committee's,* and go far to obviate the need for their proposed procedure Their fourth category is that of a Bill which "contains provisions which have the effect of including within a transferred subject matters belonging to reserved subjects" [para 36 (3) (*c*) of the report] The committee have not explained this proposal otherwise than by their reference in para 37 to "Bills which shift the boundaries between reserved and transferred subjects" We recognize that as a matter of administrative convenience, quite apart from any question of political development, some readjustment of boundaries may from time to time be necessary but inasmuch as dyarchy has *its basis in the statutory orders of the* Secretary of State, we do not regard provincial legislation as the appropriate means of effecting such adjustments To employ such means would certainly invite the agitation for a re drawing of the frontier, which we strongly deprecated in para 111 of our despatch of March 5, 1919

15 These reasons lead us to conclude that no compulsory process *of reservation is necessary It will suffice we think to provide,* as proposed in para 23 of the memorandum attached to our despatch of March 22, 1919, that the Governor shall have a discretionary power of reserving provincial Bills for the assent of the Governor General and to provide for the guidance of the Governor in the exercise of this power by the instrument of instructions We have made provision accordingly in the draft of the instructions which we attach *to this despatch*

16 As the committee point out, there arises the further question of the procedure which will follow upon the reservation of a provincial Bill They suggest that if the Governor General so directs, but not otherwise, the Governor should have power to return the Bill for reconsideration of specified amendments We need not go into the question whether the proposed power of direction should reside with *the Governor General* or with *the Governor General* in Council, because as already intimated in para 84 of our first despatch, we agree with the view taken in para 254 of the Report on constitutional reforms that the *Governor* should have this power of returning a Bill for reconsideration of particular provisions in it, irrespective of any question of first reserving it for the orders of higher authority We think that if the Bill is returned as a result of reservation, it should be by the personal orders of the Governor General There would thus be a double power of recommitment, at first hand by the Governor and in the event of reservation by the *Governor General* But inasmuch as *recommitment by the Governor*

General may obviate the use of the veto, we think that he should have power to recommit any provincial Bill irrespective of its reservation by the Governor. We agree that when a Bill is returned for reconsideration, the ensuing procedure should, with such changes as are necessitated by the foregoing remarks, follow the lines suggested by the committee. We doubt whether the procedure would be set forth *in extenso* in the statute, but we suggest that clause 7 (1) of the Bill should be enlarged so as to provide the necessary rule-making powers.

17. The effect of the modifications which we advise in the committee's treatment of the question of provincial legislation will be to reduce their proposed four categories of provincial Bills (para. 39) to three. Over and above these, however, the committee have propounded two further species of provincial legislation. In para. 40 they advise that legislation on such matters as the diseases of men, animals and plants and the destruction of pests should be shared between the central and provincial legislatures. In their list of provincial subjects the committee record against the items no. 3—public health, sanitation and vital statistics, no. 9, agriculture, and no. 10, civil veterinary department (which reappear as nos. 3, 6 and 7 in their transferred list) a remark to the effect that the Indian legislature should have concurrent powers of legislation for the purpose referred to, although the matters defined in the items are not themselves made subject to Indian legislation. The committee advise that the Indian legislature should if it sees *fit include in its legislation on such matters a provision debarring* the provincial legislature from amending its Acts without previous sanction; in which event the effect is the same as if the portion of the field covered by the Indian Act had been declared *subject to Indian* legislation. It seems to us that this indeterminate treatment of the question introduces a complication which the circumstances hardly justify. It is true that the existing code of defensive laws upon such subjects will need amplification and amendment as the people of India come to appreciate more keenly the advantages of prophylactic science. But we question whether there will be much opportunity for isolated action by individual provinces. The case is clearly one in which the need for defending uninfected areas from the invasion of disease or pests would justify the exercise of the Government of India's concurrent powers of legislation to secure concerted protective action. We think it sufficient therefore to rely on the powers which the authors of the Report (para. 212) proposed to reserve to them for such a purpose; and to secure any Indian legislation so passed against being impaired by the provincial councils either by the terms of the law itself or by prescribing it in the rules proposed in para. 13 of this despatch. This arrangement would still give the provinces an opportunity of supplementing the general legislation and of experimenting in particular directions if their peculiar circumstances so required. We therefore do not think it necessary or advisable to adopt the method proposed in para. 40 of the report.

18. Finally the committee adopt the suggestion made in para 212 of the Report that the provinces should be empowered

to adopt Indian legislation either as it stands or with modifications The proposal of course relates to provincial subjects only We see no substantial value in this arrangement As you are aware, it is at present open to the Indian legislature to enact a general law which can come into operation in a particular area only on being notified as in force there by the local Government, and so long as a province desires no modifications in the legislation which it wishes to apply that is clearly the simplest course to follow On the other hand if the province desires to modify for its own purposes the text of an exemplar Act passed by the central legislature, it clearly must legislate to do so and if the provincial legislature is to legislate, then it should do so *ab initio* without the central legislature first setting it an example which in any material respect the provincial Governments or legislatures might disregard If a provincial legislature seeks to mould its law upon a model supplied to it from outside it would always be open to the Government of India to assist the provincial Government with their advice, without going through the sterile process of first legislating themselves We do not therefore advocate the proposals made in para 41 of the report

19 It remains for us to annotate our own redraft of sec 79 of the Act The changes in sub sections (1) and (2) are consequential on clause (1) of the Bill Clause (*a*) of sub section (3) is explained by para 62 of our first despatch Clauses (*b*) (*c*) and (*d*) need no comment Clause (*e*) gathers up in one comprehensive clause the matters now covered by clauses (*b*) (*c*) (*d*) and (*g*) of the existing sub section (3) and also the committee s draft clause (*h*) Clause (*f*) is the committee's clause (*i*) clause (*j*) the committee's clause (*l*) Clause (*h*) represents our considered conclusion upon the difficult question of legislation affecting religious rites and usages We need not here refer to the lengthy correspondence which has passed upon the subject The committee s proposals for dealing with it will be gathered from paras 15 (4) and 36 (3) (*a*) of their report Our aim is much the same as theirs namely to give the provinces a greater liberty of action in redressing the abuses which often attend the administration of charitable and religious trusts, but the restriction imposed by the existing section 79 (3) (*e*) of the Act is much wider in its scope than the provisions by which they propose to replace it We have to bear in mind that much of the personal law of India is a law of status which the individual carries with him irrespective of locality For this reason we seek to retain the previous sanction of the Governor General to any changes affecting the fundamental principles of Hindu or Muhammadan law while leaving the provinces free to seek such legislative solution as they choose for the difficulties of trust administration which have been acutely felt in practice This statement of our intentions is, however subject to what we say in para 65 below regarding our purpose of legislating without delay in order to secure certain principles of trust management while leaving the settlement of details to provincial Governments As regards our draft of sub clause (*i*) we would refer you to para 13 above Since our despatch of March 22 was written we have re-

examined the language of our redraft of the section. It appears possible that an argument in favour of the extension of the powers of the provincial legislatures might be based on the use of the word "regulating" in clauses (*e*) and (*f*). A provincial Bill which materially affected the administration of an all-India subject might for example be put forward without previous sanction on the ground that the scope of the measure was not wide enough to amount to the "regulation" of the particular subject. We advise therefore that the phraseology of clauses (*e*) and (*f*) be assimilated to that of clauses (*b*), (*c*), (*d*), (*g*), and (*h*) of the sub-section.

20. Two more points present themselves before we leave this question of provincial legislation. We have already expressed our concurrence with the committee's view that the powers of the Government of India to control the administration of the reserved subjects, however the exercise of such powers in future is relaxed or modified, must remain legally unfettered, if Parliament still acknowledges, and requires the Government of India to discharge, a responsibility for the general well-being of the country. As you are aware, our administration has in the past been based to a great extent upon a number of well-defined principles, some of them laid down by eminent predecessors of your own; others evolved in the course of long administrative experience in India. Some of them, such as the principles of non-interference by the State in religious issues, or of non-interference with through trade by transit duties, are so well-established that any attempt to interfere with them would perhaps command little or no general assent in India. But there are others, which, however cardinal to our ideas of government, are not regarded by Indian opinion as equally axiomatic. The best illustration that occurs to us are the principles evolved over a long period of years as a result of the labours of many distinguished men, on which the land revenue assessment in temporarily settled provinces is administered. It has come to be regarded as settled policy that in justice to its subjects at large the State ought not to forgo its share in the unearned increment of the land as it would do settlements of land revenue were to be made permanent: indeed the ordinary duration of a revenue settlement has come to be fixed at the life of one generation. On the other hand, out of consideration for the persons most directly affected by a new settlement, it is equally well established that the enhancement of the land revenue should not normally exceed a certain fixed percentage. There is indeed a growing tendency to require that this limitation, as well as the processes by which the amount of the assessment is arrived at, should be embodied in the law and made the subject of adjudication by the courts. It is not our present purpose to discuss the reasons for and against such a change; but we are bound to ask ourselves whether it is possible or expedient to take steps to prevent what we may describe as established principles of administration being defeated by provincial legislation. We have no desire to subject such legislation to any kind of superior executive sanction: and we recognize that there is the certificate power in reserved subjects and in any case the veto. But we have to bear in mind that Governors accepting office under the new conditions

may feel some doubt whether what has hitherto been regarded as settled policy should not give way to the expressed desire of a mainly elective legislature to order things in future otherwise, and we feel that it is highly desirable if possible to avoid a situation in which the Government of India are called upon to prevent by the use of the Governor General's veto a mistaken policy expressed in provincial legislation to which the Governor has already assented The only solution we think is to embody in the instructions to the Governor a direction that in considering whether projected legislation on reserved subjects injuriously affects his responsibility for them, he must pay regard to any general principles laid down for their administration by the Government of India or the Secretary of State At the same time we recognize it as our duty to subject those principles to the strictest scrutiny from the point of view of devolution, and to retain for the guidance of Governors only those which are of vital importance to good administration, so that local Governments may not be fettered by minor precepts of efficiency

21 In the second place even if the proposed scheme of provincial legislation is simplified as we suggest, it will still be relatively intricate compared with the present arrangements It is desirable to minimise the chances that when a measure has passed the provincial legislature the Governor General may still feel bound to veto it, not merely on the technical ground that his previous sanction was not obtained, but for the more substantial reason that it runs counter to some all-India interest in a manner which cannot be allowed and which would have been pointed out if previous sanction had been sought There should, in our view, be some means of ensuring as far as possible that before legislation is undertaken in the provincial council the requirements of the Statute and the rules made under it have been fulfilled We have already said that we cannot contemplate any form of previous executive sanction The only alternative is to require that before a Bill is considered by a provincial council it shall be specially scrutinised to see that it is within the competence of the council We think that this duty should be laid upon the secretary to the council, who under the new arrangements should be an officer qualified to undertake it Para 116 of the reforms Report pointed out how largely the practice of referring Bills for executive sanction had contributed to the maintenance of the present standard of drafting in legislation throughout India and in the conditions of litigation in this country it is extremely desirable that the standard should be maintained We think it likely therefore that the new conditions of legislation in India may render it very desirable to set up some kind of central drafting office, not under the orders of the Government of India, which all local Governments would co operate in maintaining to advise upon the drafting of provincial Bills But we do not think that the certification of provincial Bills as within the competence of a provincial legislature can properly be made the function of such a drafting office even if it is created

Division of subjects

22 Before we examine in detail the committee's distribution of subjects between all-India and provincial, we should like to state

our views upon a few general points on which the committee have not touched, though some of the items which they enumerate to a certain extent involve them. The first is the question of information, which the committee mention in connection with the question of census and statistics. We should prefer to dissociate it from any particular item and to treat the matter as one of the fundamental conditions of a dyarchic system. We have pointed out (para. 12 of our first despatch) that such a system can endure only so long as it is safeguarded by Parliament, which must therefore be in a position to obtain any information which it requires whether on a transferred or a reserved subject. The authors of the reforms Report (para. 291) took the same view. But over and above this requirement it seems clear that the Government of India must have an unfettered right to obtain at any time and in such form as they require any information about the provincial administration, if they are to safeguard their own subjects, direct the administration of the reserved subjects, guide the Governor in his relations with ministers, maintain the public services on their present lines, and ensure that sufficient material is forthcoming for the statutory commission. We do not of course intend that the information so obtained shall be used for the purpose of executive interference to any further extent than the principles which we have accepted require: and we have already (para. 4) made it clear that in transferred subjects such intervention will be statutorily circumscribed. Our intention is that the Government of India shall be in a position to express their views freely and with full knowledge upon provincial administration, to advise where necessary, to rely for the enforcement of their view mainly upon public opinion and the strength of their case, and to interfere only in accordance with the principles and in the circumstances which we have already defined.

23. Connected closely with this last matter is the question of inspection and technical advice. The existing system of administration involves, as you know, the maintenance at the headquarters of the central Government of a number of inspecting or consulting officers whose advice, particularly on the technical side of the administration, has in the past been of the greatest value both to the Governor General in Council and to local Governments. With very limited exceptions these officers have had no executive authority over departmental work in the provinces. They have inspected provincial departments and advised the Government of India upon the results, and whatever decisions the Government of India have come to as a result of their advice have been communicated by that Government in orders to the local Government. We feel no doubt that this body of consultant and inspecting officers will be required in future, though the topics with which they are concerned are provincialized or even transferred. So far as the all-India and the reserved subjects go, no doubt arises. Whatever change ensues in their functions, it is clearly necessary to retain, for instance, the Director of Central Intelligence, the Director General of the Indian Medical Service, the Inspector General of Irrigation, and the Director General of Archæology. We feel no doubt that the services of the Educational Commissioner, the Sanitary Commis-

sioner, the Agricultural Adviser and others will be no less necessary, even if the corresponding departments in the provinces are in whole or part transferred to ministers. Coming changes will no doubt affect profoundly the activities of the Government of India departments, and their consequences in this respect can only be seen after some experience of the new arrangements. It would be premature to attempt to forecast them. But without seeking here and now to decide exactly what staff will be required for the purpose of transferred subjects at the headquarters of the central Government, we wish to make it clear that some such staff will certainly be needed. The function of these officers would be to inspect the operations of the transferred departments in the provinces, and to report their conclusions to the Governor and Ministers as well as to the Government of India, and to produce as at present periodical reports which would be available to the general public. If they had occasion to criticise, their views would be expressed with due recognition of the extent to which provincial policy, however different from the policy previously pursued, enjoyed the support of public opinion in the province. They would in short report in the character of professional consultants and not in that of official supervisors. We do not propose that in the event of intermediate action appearing necessary upon their reports the Government of India should issue any official directions to the local Government. They would generally rely, as we have said, upon the fact of publicity and public criticism; but in extreme cases where remedial action was called for we think that they should call the attention of the Governor to the defects disclosed, and invite him to use his influence and authority with ministers to secure their removal.

21. The matter of scientific research again is closely associated with the questions of inspection and advice. This is an important element in the medical, sanitary, agricultural, forest and civil veterinary departments, and it will figure largely in the activities of the proposed industrial department. On the educational side it has its counterpart in the central Bureau of Education. The committee have proposed to treat "central institutions of scientific and industrial research" as an all India matter, and in these should be included, we consider, not merely the medical and bacteriological laboratories, but the Research Institute at Pusa, the Bacteriological Laboratory at Mukhtesar and the Forest Research Institute at Dehra Dun. In all these cases there is room for a great expansion of scientific research, and central institutions are needed for the double purpose of assisting and co-ordinating the work of provincial officers, and of undertaking investigations which are beyond their scope. None of the provinces is at present in a position to undertake all the research required for local purposes, and while it is desirable that the major provinces should be encouraged to equip themselves better in this respect, we think that central institutions will always be required to deal with the wider problems. At this point the question presents itself whether the Government of India, keeping in their own hands the direction of such central institutes of scientific research, should intervene in provincial research for the purpose of preventing overlapping or the dissipation of effort on infructuous inquiries. We do not propose that

provincial research should be hampered by any direct control. Scientific inquiry if it is to be real and fruitful must be left as free as possible. We think, therefore, that the results of the central institutes' research should be freely available to provincial departments and may be safely left to carry their own commendation with them. It may be anticipated that the central institutes will for some time to come enjoy the best equipment and the most skilled staff: their work should prove itself: and if any provincial department persisted in disregarding the results which were made available to it, we imagine that the consequence in the shape of waste of time and money would be brought home to it if not by public opinion at least by the statutory commission. We may add that cognate problems, tempered however by the powerful factor of commercial production, present themselves also on the industrial side: but it will be more convenient to deal with that very important topic as a whole in connexion with para. 45 (3) of the committee's report.

25. We come now to the proposed division between all-India and provincial subjects. The committee's remarks upon this point in the third sentence of para. 13 of their report call for some amplification. Every department of the Government of India laid before them a detailed memorandum showing its own relations with the provinces, the nature of the control exercised and the reasons therefor: and we offered our Secretaries and Departmental Officers as witnesses to the committee in case they desired to elucidate further the information so supplied. It was out of the question for the Government of India, wihout knowing what principles of demarcation the committee contemplated, or the nature of the evidence which they had received in the provinces, to work out an entire scheme: our intention was first to settle principles with the committee, and thereafter to confer with them upon their application to details. The pressure of time alone made it impossible to adhere to this intention: the committee took no secretariat evidence on their return to Delhi and no conferences were held. It must not be deduced from the committee's condensed account of what occurred, that the Government of India neglected their own part in the inquiry or allowed an undue burden to be thrown upon the committee. The fact is that the inquiry had perforce to be conducted under stringent time limits, and we believe that everyone concerned did their best in the circumstances.

26. One more point requires notice. The committee would be the last to claim that their enumeration and definition of subject heads has scientific precision; and whatever time and care were to be expended on refining it, the possibility of overlapping, uncertaintly or omissions must remain. There must therefore in any case be authority to determine on which side of the line a given topic falls. If it is a question between all-India and provincial subjects, such power must reside with the Governor General in Council: and with the Governor personally if it is a question between reserved and transferred matters.

All-India subjects.

27. The committee's all-India list appears to us to be generally suitable; but we desire to suggest certain amendments of varying importance in the list as it stands, and to recommend the addition to it of

certain matters which appear to us to be clearly of an all-India nature, and of sufficient importance to justify their inclusion

28 *Item 1* —This should we think be expanded so as to include matters connected with the defence of India, such as ordnance, munitions, censorship, prize courts, etc , which are not covered by the committee's enumeration of personnel and works We recommend the following redraft —

"All questions connected with His Majesty's naval, military, and air forces in India, including the Royal Indian Marine, volunteers, cadets and armed forces other than military and armed police maintained by provincial Governments"

"I-A Ordnance, munitions, censorship, compulsory purchases requisitioning, prize courts, registration of mechanical transport, etc , for naval or military purposes"

29 *Item 5* —We doubt if all excluded areas should be made an all-India subject, but shall make a recommendation after further examination of the treatment necessary for them (*vide* para 84 below)

30 *Item 6* (*a*) —We agree with the committee that, though railways are essentially an all-India subject, provincial governments may well be given a larger voice in the construction and working of light and feeder railways within their jurisdiction But the specific proposal to adopt the British parliamentary procedure in the case of light or feeder railways does not commend itself to us Methods that have arisen out of the special conditions in England would not be suitable in India Legislation is ordinarily unnecessary for the purpose in view and to have recourse to it would be dilatory and expensive It involves a marked departure from Indian methods of business that a department of the Government of India acting under the orders of that Government should appear as a party to plead its case against the promoters of a private line before a select committee of the provincial legislature with a majority of non official members It would still be necessary to reserve control over such projects by means of the veto, and we are opposed to giving an unreal appearance of discretion to the provincial councils The Railway Board, whose opinion we attach, are opposed to the suggestion We think that the simpler course will be to confine item 6 (*a*) of the all-India subjects to

"Railways and tramways, except (*i*) tramways within municipal areas and (*ii*) light and feeder railways and tramways"

We should then leave those two exceptions as provincial subjects, the former transferred and the latter reserved, subject to such general principles as the Governor General in Council may prescribe, and we should alter *item 5* (*d*) of the provincial list accordingly The legislature of a province would deal with Bills for light and feeder lines in the same way as other legislation but there should in our opinion be a standing order requiring at least two months' notice of a motion for leave to introduce a Bill on this subject in order that the Railway Board may have an opportunity of advising the local Government regarding it in time

31 *Item 6* (*b*) —The alternative course to that proposed by the committee would be to rely on the well recognized obligation of local Governments to maintain all arterial communications in a proper state

of efficiency. But in view of the proposed transfer of the subject of communications to ministers that arrangement might entail inspection of roads of military importance by the Department of Military Works, an arrangement which would be more likely to engender friction. We therefore accept the committee's proposal. The subsidiary question whether this should entail any transference of charges will be examined subsequently. As it stands, however, *item 6 (b)* is not regarded as sufficiently comprehensive. We advise that it be redrafted as follows:—

> "6. (b) Such roads, bridges, ferries, tunnels, ropeways, causeways, and other means of communication as are declared by the Governor General in Council to be of military importance."

32. *Item 6 (c)*.—This should in our opinion be amplified as follows:—

> "Air-craft, air-craft factories, aerodromes and landing places."

33. In *items 6 (d), 10* and *20* occurs the phrase "declared by or under Indian legislation". In the case of inland waterways the committee's intention is that such legislation should define the extent to which they are an all-India subject; in the case of ports it should declare those ports which are to be regarded as major ports and therefore an all-India subject; and in the case of the production, supply and distribution of certain articles. it should lay down the articles of which control by a central authority is regarded as essential in the public interests. In all these cases we accept the main purpose of the committee, which is to draw the line between central and provincial business ; but we see no reason to undertake legislation in order to give effect to it. Rules framed by the Secretary of State will fix the classification of subjects as all-India or provincial, and power should be given to the Governor General in Council under these rules to define the extent to which inland waterways shall be all-Indian, to declare the major ports, and to notify the articles which are to come within the scope of *item 20*. To require legislation in these cases would not only be inconvenient and productive of serious delays but would also impose on the Indian legislature a function which has never belonged to it and which it is not well qualified to discharge. We may take this opportunity of specifying the ports which we propose that the Governor General in Council should declare to be major ports. We think that Calcutta, Bombay, Karachi, Aden, Rangoon and Madras should be declared to be major ports and that for special reasons Chittagong and Vizagapatam should also be so treated. Tuticorin would then be the largest of the minor ports, and it is quite possible that either there or at Cochin there may be such development as to require that they also should hereafter be treated as major.

34. *Item 8* should be amplified to read as follows:—

> "Lightships, beacons, buoys, and lighthouses (including their approaches)."

35. In *item 11* we would add after the word "telephones" the words "and wireless installations". In *item 12* we would substitute "taxes on income" for "income-tax". The term income-tax has a restricted meaning, and it should be made clear that the central Government of India will reserve for itself not only the existing tax known

but all taxes on income The excess profits duty, for
as income ta h has recently been introduced would not be covered by
example, wh the committee's list, but it clearly should be classified as
the entry in ubject
an all-India not clear what articles the committee had in mind when
36 It is their definition of *item 20* We understand that this
they framed it intended to cover the case of munitions, which would
entry was n *item 1,* nor yet stores (though these have not been separate-
come under for), but was meant to embrace such articles as cinchona,
ly provided on of which the Government of India now contemplate
the product their sole charge We would accept the entry with the
taking unde suggested in para 33 above but would divide it into two
amendment ows —
parts as foll trol of production supply and distribution of any articles,

20 Con n respect of which control by a central authority is declared
by the Governor General in Council essential in the public
interests

Control of cultivation and manufacture of opium and sales
20 A Of opium for export

37 *Item* *28* requires some modification in regard to railway police
The positio n of the railway police differs from that of the ordinary
civil police *in only* two important respects The first difference is
that owing to the fact that railway administrations are not co termi-
nous with provinces it is in many cases convenient to give the railway
police of one province jurisdiction over a special section of railway
lying with in an adjoining province The second difference is that the
cost of the railway police is divided between provincial Governments
*and the rai*lway administrations We would deprecate any change in
the existi g position and would resist any proposal which has the
appearance of placing the organisation and control of the railway police
to a great er extent than at present in the hands of the Government of
India All that is required is that the jurisdiction and cost of the
railway police should be made an all India matter We recommend
therefore that the words "so far as jurisdiction and cost are concerned"
be added to *item 28*

38 We feel that *item 30* as it stands does not fully cover the case
of medical research The Government of India maintain a bacterio-
*logical sta*ff for enquiries connected with public health and in addition
to mainta ining a central research institute they also provide part of the
staff of some provincial institutions They further administer the
Indian Research Fund We suggest that the words 'Central agency
*for medi*cal research and' should be inserted at the beginning of the
entry *item 33* —While we agree that archaeology should be classed

39 *All* India subject we are anxious to consult the Government
*as an a*s before we definitely recommend that the provincial archaeo-
of Madras establishment should be taken over by the Government of India
logical e tion of the officers of the provincial department will be affected
The posi change and we think it right that the local Government should
by this an opportunity to express their views before a final decision
be given

is taken. The committee's remark that the Government of India had suggested that archæology should be classed as an all-India subject is not quite accurate. The suggestion was a departmental one but we think it was right in principle.

40. The entry in the remarks column opposite *item 36* is one which, as we have already said, should in our opinion be of universal application. We think it absolutely necessary that the Government of India both as the agent of Parliament and in its own interests should be in a position to demand returns and information on any subject in any form required. This was recognised in para. 291 of the Report, and we recommend that the point should be freed from all doubt by the insertion of a definite provision to this effect in the rules to be framed by the Secretary of State.

41. We come now to the omission from the all-India list of matters which in our judgment are too important to be relegated without specification to the committee's residuary *item 40*. After *item 3* " Relations with native states " we suggest an entry " Political charges ". There are various charges of a political nature, for example, political pensions, which do not affect our relations with Indian states, and all of which are of an all-India nature. It seems advisable that such charges should be definitely included as an all-India subject.

42. Another matter of a political nature which finds no place in the list is that of State prisoners. There are three regulations for the confinement of State prisoners, *viz.*, Bengal Regulation III of 1818, Bombay Regulation XXV of 1827 and Madras Regulation II of 1819, besides certain ancillary ones. The detention of any person as a state prisoner uader the Bengal Regulation requires the orders of the Governor General in Council, while for detention under either of the other two regulations the orders of the Governor in Council concerned are sufficient. Though the Governments of Madras and Bombay thus theoretically enjoy full powers under their respective regulations, the Government of India could not under modern conditions allow these powers to be exercised without reference to them. We propose, therefore, to include this subject after *item 2* in the all-India list.

43. *Item 4* is probably intended to cover only the general administration of territories other than the provinces included in the schedule. The Andaman Islands occupy a somewhat special position. Their problems are those of penal rather than of general administration, and we propose to include them, together with the Nicobars, which are in practice administered from Port Blair, as a separate subject, which might suitably be included in the list after *item 4*.

44. It is also desirable to provide for the possibility of re-distributions of territory affecting provincial boundaries which may follow the introduction of the new régime. Such re-distributions are clearly a matter which must be regulated by the central Government. This will also necessitate the retention of power to declare the laws in force in the new areas. We recommend that an entry should be made in the all-India list " Territorial changes other than intra-provincial, and declaration of laws ".

45. One notable omission, however, from the all-India and provincial lists is the subject of stores, with which stationery is closely connected. The classification of this subject presents peculiar difficulties. We do not desire to see it made wholly all-Indian, while it is clearly undesirable to make it entirely provincial. Competition between local Governments would undoubtedly tend to raise prices, and provincial stores departments could not afford the same stimulus to industrial development as a central department which was in a position to place large orders with single firms and thereby enable them to compete successfully with foreign producers Any division of the subject, however, is impossible without detailed investigation. We propose therefore, as recommended in para 196 of the Industrial Commission's report, to appoint a committee as soon as possible to examine the extent to which decentralisation in regard to stores will be possible; and in the meantime we suggest that stores and stationery be added to the all-India list after *item 20*, on the understanding that such measures of [illegible] tion as are found by the Governor General in Council [illegible] will be introduced as soon as possible. Government [illegible] also find a place in both the all-India and provincial [illegible] provide for both central and local Government presses

46. Food supply is another topic requiring [illegible] rience in India has proved the necessity of making [illegible] food supply an all-India subject The point is [illegible] for argument, it is sufficient to say that in [illegible] this country is now passing through, it is [illegible] ment of India should be in a position [illegible] control of all food supplies The same [illegible] of fodder, fuel and other articles. The [illegible] authority which can adjudicate upon the [illegible] provinces; and we fell strongly that it [illegible] provincial trade in them at any time. [illegible] should be definitely recognised as an [illegible] following item should be added to the [illegible] lation of food supply, fodder, fuel, and [illegible] vinces in times of scarcity."

47 Pilgrimages beyond India are clearly [illegible] not come within the sphere of any [illegible] important is the Hajj. We would add [illegible] in the all-India list after the existing [illegible]

48 Government of India records [illegible] topics which find no mention [illegible] be added as a joint entry 30-A [illegible]

49. Government of India [illegible] to, may all-India list, and may be inserted [illegible] justi-[illegible]

50. Another matter of [illegible] all-India list is the regulation [illegible] precedence and darbars, and [illegible]

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would come under medical administration, is clearly a matter in which the Indian legislature should have power to legislate for the whole of India We agree, but we consider that the point is covered by the proposals made in paras 12 and 17 above

57 It is doubtful whether *item 3* would include the subject of pilgrimages We have pointed out in para 47 above that pilgrimages beyond India should be made an all India subject, and we would like to see pilgrimages within India made a provincial subject and included as a new *item 3-A*

58 The question of the powers of control in regard to education which should remain vested in the Government of India is a matter of great difficulty We shall discuss the whole question of the treatment of education in connection with the transferred subjects and here we desire to make only three suggestions First we think that after the words "Benares Hindu University' in *item 4 (1)* there should be added the words "and such other new universities as may be declared to be all India by the Governor General in Council" We feel that some such provision is desirable, as it is possible that other universities closely resembling the Benares Hindu University may be constituted in future Secondly, after "(2) Chiefs' Colleges" we would add "any institutions maintained by the Government of India" Our last comment is contingent on what we say hereafter as to the treatment of higher education and will be disposed of if our views upon that topic are accepted We feel that the period of five years during which it is proposed to give the Government of India legislative powers with regard to the Calcutta University and the control and organization of secondary [illegible] ufficient The changes proposed by the Cal[illegible] are so far reaching that a considerable [illegible] se before they can be brought into effect and a much longer period before their results can be judged In the event therefore of the transfer of higher education to ministers (a course which as we shall show you we do not advise) we should propose that for the words "for a period" down to the word "operations" the following should be substituted "up till the time when the recommendations of the first statutory commission are carried into effect"

59 Regarding *items 5 (b)* and *5 (d)* in the provincial list we would refer you to what we have said in paras 31 and 30 above

60 *Item 6* appears to us to require both expansion and amendment We propose that the following should be substituted for it "Control of water supplies in rivers streams and lakes, irrigation and canals, drainage and embankments, water storage and water power subject to such rules in regard to technical scrutiny and financial sanction as may be prescribed" The additions which we suggest in this item are justified by the necessity of retaining control over all water supplies in order that these may not be dissipated and rendered useless for purposes of industrial development, irrigation, etc Our objection to requiring legislation in such cases has already been explained in para 33 above

51. Provision should also be made for the regulation on uniform lines as an all-India subject of the higher language examinations.

52. The last addition which we desire to make to the all-India list is the Government servants' conduct rules. At present the conduct of Government servants is regulated by rules issued by the Governor General in Council. It is clear that in the case of the all-India services the Governor General in Council must continue to regulate the conduct of officers. We feel that it would be very undesirable to have one rule of conduct for the all-India and another for the provincial and subordinate services. The maintenance of the present integrity and high standards of the services is an all-India interest. We consider therefore that the conduct of Government servants generally must be made an all-India subject, and we would add it after the existing *item 37*.

53. One onerous responsibility of the Government of India during recent years has been the watching and handling of political activities throughout the country. These have had the widest possible range, from proceedings which are covered by the criminal law to others which lie well within the limits of orderly and constitutional activity. The subject ramifies broadly and includes not merely matters like passive resistance or organized agitation which may at any moment call for intervention, but also organizations which are primarily non-political, such as boy-scouts, civil guards, volunteer *samitis* and proceedings like strikes and picketing in the industrial field. We feel that while the central Government which is ultimately responsible for the peace of India cannot but feel a close interest in such matters, the actual handling of them must be to a great extent committed to local Governments' hands. We think it better not to attempt to gather them up in any comprehensive definition as an item in the all-India list, but to treat them as sufficiently covered by the committee's *item 40*.

Provincial subjects.

54. We turn now to the list of provincial subjects. Our comments upon the all-India list will have suggested that here also our criticisms are mainly on points of detail. There are, however, a large number of these in regard to which we desire to make suggestions.

55. From *item 1* we propose the omission of all words after "Cantonments Act". Our reasons will appear from para. 109 below in which we discuss the transfer of this subject.

56. *Item 2.*—While we accept the proposal that medical administration should be provincialized, we consider that the last five words of this item should be removed and added at the end of *item 42*. Our reason is that we are strongly of opinion, on grounds that we shall develop later in this despatch, that medical education should be made a reserved subject; and the other matters included in *item 2* will be all transferred, while those composing *item 42* will be reserved. Our attention has been called to the point that the subject of leprosy, which

would come under medical administration, is clearly a matter in which the Indian legislature should have power to legislate for the whole of India We agree, but we consider that the point is covered by the proposals made in paras 12 and 17 above

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61. The treatment of land revenue administration (*item 7*) is of special importance. We are prepared to agree to the entries proposed by the committee under this head, but the land revenue administration is so vital to the welfare of the whole country that the Governor General in Council must continue to regulate it by general principles which like others of the kind the Governor would be required to take into account in dealing with proposals for legislation. We have referred to this matter at greater length in para. 20 above. The disposal of crown lands and alienation of land revenue are subjects which must continue to be a special concern of the Government of India and in regard to which such general principles would necessarily be laid down for the guidance of local Governments. After *item 7* we would insert a new *item 7A*. "Management of State properties."

62. As regards the committee's explanatory note with reference to *items 9* and *10* in the provincial list we may refer you to para. 17 of this despatch. Our views are supported by the experience of the military authorities as to the need for co-ordinating the action of provincial Governments in this matter of defence against contagious or infectious animal disease.

63. *Item 14*.—The procedure proposed by the committee for the acquestion of land for industrial purposes would be a new departure so far as India is concerned; and we cannot recommend it. We think that the procedure by private Bills, far from facilitating the development of industry, would positively impede it. It would involve expense and delay and the risk of improper influences. Moreover in cases where the Government of India themselves desired to promote an industry, it would be open to the same objection as the proposal already discussed in para. 30. Nevertheless we recognise that our present law is not sufficiently liberal. We propose forthwith to examine the practicabitliy of amending it by specifically extending its scope to cover applications on behalf of industrial enterprises, accompanied by safeguards such as those proposed by the Industrial Commission, and by bringing such applications under the cognizance of the legislature.

64. *Item 16* would give the provincial legislatures power to alter without previous sanction the jurisdiction of the civil courts. Changes may possibly be made which will re-act not merely on the public but on the High Courts and the Privy Council, but we are prepared to face this contingency. We think that in addition to matters relating to the constitution of High Courts, matters relating to the constitution of Chief Courts and the Courts of Judicial Commissioners should also be excluded. The definition of the item as a whole seems capable of improvement and we suggest the following redraft:—

"The administration of justice, including the constitution, organization and powers of courts of civil and criminal jurisdiction within the province other than a High Court, a Chief Court or the Court of a Judicial Commissioner, but subject to Indian legislation as regards courts of criminal jurisdiction."

65 We have some difficulty in accepting *items 19* and *22* as they stand The revision of the law in regard both to court fees and to religious and charitable endowments is at present under the consideration of the Government of India A Bill relating to religious and charitable endowments has been approved by your predecessor and but for the war would have been introduced in the Indian legislature We are anxious that the legislation on both these subjects should be passed before the reforms take effect, and shall make every effort to ensure this We recommend therefore that, for the present, *item 19* be made provincial "subject to Indian legislation", which involves the omission from the definition of all words after "legislation", and that *item 22* stand as at present on the understanding that the forthcoming Indian Act upon the subject will be secured from alteration by rules under our proposed section 79 (3) (*i*)

66 The inclusion of the subject "development of industries" (by which we mean, and obviously the committee meant, manufacturing industries) in the provincial list alone would have the effect of debarring the Government of India from undertaking the direct development of any industry This is a position which we cannot accept The subject of industries is of great importance and we reserve our discussion of it as a whole until we come to deal with the transferred subjects But to anticipate for a moment the conclusions to which our examination of the question has led us, we propose that the development of industries should come within the sphere of both the central and the provincial Governments In the all-India list we would add the following entry after *item 22* —

No 22-A The development of industries including industrial research	See No 24 —Provincial The fact that the development of any industry or any industrial research is being taken up by the Government of India will not prevent local Governments from also taking it up

and in the provincial list we would alter *item 24* as follows —

Development of industries, including industrial research	*Vide* all India list No 22-A

67 From *item 26* we would omit all the words after "articles" There is no need to give provincial Governments any power of regulating either the export from or import into India of adulterated articles in which behalf the customs legislation of the central Government affords all necessary powers

68 In *item 28* for the reasons given in para 33 above we suggest that the words "by the Governor General in Council" should be substituted for the words "by or under Indian legislation"

69 In *item 29* for similar reasons we would insert after the word "declared" the words "by the Governor General in Council"

70. In *item 30*, for the reasons given in para. 37 above we would insert the words "the jurisdiction and cost of" between "than" and "railway".

71. In respect of *item 31*, the only comments which we have to make concern the subjects of poisons and cinematographs. The import of poisons should we consider be subject to Indian legislation. We have recently passed an Act which provides for the certification of films and are only awaiting the views of local Governments on certain points of detail to bring it into operation. This certification will not, and without great inconvenience to the trade could not, be placed upon a provincial basis. It must, we think, be regulated by the central Government, and we propose therefore that at the end of *item 31 (f)* there should be added the words "subject to Indian legislation in regard to certification".

72. In *item 32* we consider that after the word "newspapers" the word "books" should be inserted.

73. In *item 36* after the word "prisons" we would, in view of the Prisoners Act. add the word "prisoners".

74. In *item 37* we would suggest the addition of the words "and cattle trespass".

75. To the exceptions made in *item 39* should be added after "Indian Museum" the words "Imperial War Museum".

76. *Item 41* relates to the questions of franchises and elections. In our next despatch we shall ask you to decide whether the franchises settled by rules under the Government of India Act are to be regarded as open to revision at the wish of the various parties, or as fixed for the period previous to the first statutory commission. In the latter case the item should disappear. In the former case the reference to Indian legislation should go out, inasmuch as it is not the intention that the Indian legislature or the provincial legislatures should have power to alter rules made by the Secretary of State in Council and laid before Parliament.

77. The reference to Indian legislation in *item 43* appears to us to be too wide in scope. As we have explained in para. 44 *et seq*. of our despatch of March 5, 1919, our view is that the all-India services should be regulated by legislation in Parliament. We consider that these services are entitled to have their conditions settled beyond the possibility of alteration by any authority in India. Within the fundamental limits so prescribed the control of the all-India services is already an all-India subject (*item 37*); which arrangement will of course not preclude the local Governments from determining the day-to-day administration of such services as are under their orders. The case is an excellent example of the thinness of the dividing line between reserved and some all-India subjects, but inasmuch as the scheme requires that the item should figure on one side of the line, we have no doubt on which side it should remain. *Item 43* should accordingly read "Control of the public services other than the all-India services, serving within the province, subject to Indian legislation".

78 *Item 44* does not go quite far enough We would substitute for it the following —

"Sources of provincial revenues not included under previous heads, whether (*a*) taxes included in the schedule of additional provincial taxes or (*b*) taxes outside this schedule in the case of which the prior sanction of the Governor General in Council has been obtained to the necessary legislation" While for clearness' sake we prefer this redraft, we admit that inasmuch as such taxes can only be imposed by law our redraft of sec 79 (3) (*a*) of the Act goes far to render (*b*) unnecessary

79 The limits of provincial borrowing, like other points in the scheme, will be determined by rules made by the Governor General in Council with the sanction of the Secretary of State in Council If it is held that such rules cannot empower the provincial governments to hypothecate their revenues for the service of a loan, they should be enabled to do this by Indian legislation which should not be open to alteration by the provincial councils *Item 45* should therefore read "Borrowing of money on the sole credit of the province subject to such rules as are made by the Secretary of State in Council".

80 We do not understand *item 46* In para 48 of their report the committee refer to this as a subject which cannot in itself either be reserved or transferred, but to us it does not appear to be a subject in the same sense as every other item in the list is a subject The committee have possibly inserted this entry in order to forestall the argument that the insertion of penal clauses in a provincial Bill *ipso facto* makes the Bill an all-India subject by bringing it within the scope of criminal law (all India *item 27*) We sympathise with the committee's object but we would prefer to see it effected by some other means, such, for example, as an entry in the remarks column opposite *item 27* of the all India list We would strike out the proposed *item 46* of the provincial list on the ground that there is no real substance in it

81 There are only two items which we desire to add to the provincial list The one is "Provincial records and libraries" and the other "European cemetaries and historical monuments and memorials" Both might suitably be inserted between the existing *items 39* and *40* European cemetaries still in use and some disused ones would come under ecclesiastical administration (all India *item 31*) but many old grave yards throughout India would not do so, while places such as the Residency at Lucknow and the Memorial Gardens at Cawnpore with which are associated national memories are nowhere specially included They might, unless provided for, be treated as gardens and be transferred to ministers' hands Such memorials must certainly remain the peculiar care of the official Government and we propose to include them as a provincial reserved subject

Transfer of subjects

82 At the outset of their proposals for the transfer of subjects the committee, in fulfilment of a pledge given by the Government of India

to the Government of Madras, record the formal objections taken by that Government to any proposals involving a division of functions. They note also the reservations or qualifications with which the Governments of Bombay and the Punjab and the Chief Commissioners of the Central Provinces and Assam placed proposals for those provinces before them. Our despatch of March 5 explains that before concluding in favour of the scheme of provincial Government proposed in the Report we carefully weighed the objections taken to the division of functions by certain local Governments; and on the present occasion we may be content therefore merely to draw your attention to these dissents. In paras. 45 to 47 of their report the committee go on to deal with particular items in the transferred list. We shall reserve our remarks upon these for subsequent paragraphs.

83. Para. 48 of the report discusses certain matters which, as the committee say, cannot themselves be either reserved or transferred. As regards the first two of these, *viz.*, the public services and the provision and distribution of financial supply, we shall explain our views in dealing with sections IV and V of the report. As we have said, we do not clearly understand the purport of item (3) relating to the 'imposition of punishments' and for the reasons given in para. 80 above do not think it necessary to preserve the item in the provincial list. Item (4) relates to any matter which, though included within an all-India subject, may be declared by the Governor General in Council to be of a purely local or private nature within the province. We have no objection to such a provision although no good illustration readily occurs to us. We think it likely that any given case would be sufficiently cognate either to some reserved or transferred subject to leave little doubt as to the category into which it should fall, and the Governor's intervention under para. 239 of the Report should be necessary only in the event of a difference of opinion which ordinarily need not arise.

84. *Item 5* in the all-India list proposes to treat as an all-India subject all areas excluded from the general scheme of the report, and paras. 49 and 50 of the committee's report explain their views as regards some of these areas, and the effect upon their own proposals for the transfer of certain subjects in the provinces concerned. The treatment of backward tracts was not a matter directly falling within the terms of the committee's reference, although it was inevitable and proper that they should incidentally take cognizance of it. Their suggestions, however, do not deal with all the tracts for which it is necessary to make special provision; and the more convenient course, we think, will be to reserve this section of the problem, regarding which we have been in communication with the local Governments, for a separate despatch, rather than to overload the present one with a discussion of the various points of detail involved. Simultaneously we shall discuss the arrangements to be made for Assam.

85. The difficult question referred to in para. 51 of the committee's report really belongs to the discussion of the report of the franchise committee; and we shall deal with it when we discuss their report.

Powers of the Governor

86 In section III, part 2 of the report the committee discuss the powers of control in transferred subjects to be exercised by the Governor in Council or by the Governor, and the conclusions which they have reached do not seriously differ from our own, as intimated to you in our despatch of March 5 The committee (para 55) support our conclusion that the Governor in Council cannot with advantage be brought directly into the administration of transferred departments We entirely agree with the committee (para 58) that a double responsibility will rest upon the Governor, the proper discharge of which will require that he should have power to intervene in transferred subjects on either of two grounds—

(i) for the protection of the reserved subjects, and

(ii) for the protection of the special responsibilities, unconnected with any particular subject, which are laid upon him by his instrument of instructions

This conclusion was anticipated in the remark in para 83 of our first despatch that " under his instrument of instructions the Governor will have certain peculiar responsibilities which are not identified with the reserved subjects " In either case the Governor will be discharging a duty which he owes to the ultimate authority of Parliament and it must be open to the Government of India in the exercise of their responsibility to Parliament to direct and control him in such cases

87 To provide for the former case the committee (para 60) sketch out a procedure which is in general accord with the proposals in paras 102 and 104 of our first despatch In para 60 (8) they go rather further than we had proposed in the direction of empowering the Governor to take emergency action during an interregnum between two ministers, and in such an event we consider that it should be the Governor himself, and not the official half of the local Government which should take charge of the ownerless portfolio On the other hand they omit to carry matters to the ultimate test by providing for the possible retransfer of a transferred subject, in order to end insoluble disagreement between a Governor and his ministers We regard the proposal made in para 102 of our despatch as affording the only answer to the inevitable problem which presents itself during the period of transition, that is to say, the problem of what is to happen if ministers and legislature are bent upon a course of action to which the Governor guided by his instrument of instructions and acting under such directions as he may receive from superior authority feels it impossible to assent To our mind this is the ultimate test of dyarchy, and the cardinal assumption, made in para 12 of our first despatch that the authority of Parliament must remain paramount over both halves of Government forbids us to answer it except by providing for a possible retransfer

88. Para. 61 of the committee's report goes to reinforce the proposals made in para. 40 of our first despatch. In para. 63 the committee suggest material for rules of the kind for which we proposed to provide in para. 13 of the memorandum forwarded with our second despatch. We accept clause (1) of the committee's proposals, and likewise clause (2) (*a*) which accords with para. 104 of our first despatch. As regards sub-clause (2) (*b*) we prefer, as we have already said in para. 10 above, that in reserved subjects the orders of the Government of India should be addressed to the Governor in Council. As regards sub-clause (2) (*c*) we think that it should be for the Governor, as we have just observed, to decide any doubtful question of jurisdiction; but that once the jurisdiction has been decided the substantive decision should not be that of the Governor in person but either that of the Governor in Council or that of the Governor and ministers, subject in the one case to the Governor's powers under section 50 of the Act and in the other to his power of overruling his ministers. We hope, however, shortly to present to you a draft of the rules which we suggest for regulating the procedure in all these cases.

89. We come now to the important matter of the instructions to the Governor. At the outset we wish to make it clear that we regard these as the appropriate means of affording the Governor guidance in the comparatively delicate matter of his relations with ministers. They measure the extent to which the ministerial portion of the Government is to be regarded as still coming short of a purely constitutional position. They are the means by which the discretion of the ministers and legislatures is still to be regarded in some respects as tempered by the need for securing that the wishes of Parliament in vital matters are not disregarded. But they are inappropriate for regulating the attitude of the Governor in Council, who, inasmuch as he cannot properly receive instructions from the legislature, must remain amenable, if necessary in the least particular, to superior authority. The committee's proposals in para. 67 accord with the intentions of the reforms Report. As regards clause (1) we should prefer as in the existing Act to adopt the phrase "safety and tranquillity' inasmuch as the term "peace" is really included in "tranquillity;" and would include a reference to the need of mitigating religious animosities before they reach the point at which they express themselves in violence. Items (2) and (3) we accept as appropriate and sufficient. With reference to item No. (4) we would refer to para. 49 of our first despatch. So long, however, as the expression proposed by the committee is included only in the instructions, which it will be left to the Governor to interpret, we see no harm in the adoption of their phraseology. As regards their additional suggestions we recognize clearly the need for securing Muhammadan education: but we consider that the proposed injunction should be so extended as to ensure that the Muhammadan community get their fair share of all increased facilities. In sub-clause (2) which is designed for the protection of mission interests, we should prefer to lay down that no changes such as those referred to in the clause should be adopted "which are inconsistent with educational interests". We entirely agree that due provision must be made for the education of the depressed and backward classes; but we can see no sufficient

reason for confining the scope of such an admirable injunction to the single presidency of Madras or to the interests of mere education

90 While, however, we approve the committee's proposals generally we feel the situation requires something more As we have said in para 110 of our first despatch we are anxious that the *Governor's instrument of instructions should make it clear that he* is to use his powers "resolutely to prevent any deleterious lowering of the standards and ideals of administration which they (the Governor in Council) hold in charge for Parliament" We should like to launch this vast experiment of constitutional changes in India with a clear and unmistakable declaration of the lines on which we hope and intend that it shall be conducted In Appendix II to this despatch we attach a draft in which we have tried to develop our ideas of what the document should be It will be plain to you that we think the unprecedented situation requires a pronouncement differing both in contents and in tone from any *colonial precedents and carrying with it something of* the authority attaching in India to a Royal proclamation

Transferred list

91 The subjects proposed by the committee for transfer are shown in the list in section III—3 of their Report We consider that the list regarded as a whole is a good one and calls for comparatively little criticism But there are a few matters of the first importance in regard to the treatment of which we find ourselves in disagreement with the committee, and some others of lesser moment on which we desire to offer comments

92 *Item 2*—We assent *to the transfer of medical* administration with the exception of medical schools and colleges which, for the reasons given in para 107 below, we think should be treated as a reserved subject, and brought into close relation with the committee's *item 42* in their provincial list

93 The committee's attitude towards the very difficult question of education (*item 4*) is succinctly indicated in para *45 (1)* of their report They received various suggestions for the division of the subject of education, but came *to the conclusion that any partition* was unsound and unworkable and they have contented themselves therefore with leaving European education as a reserved subject and transferring all the rest including university, technical and secondary education to the control of ministers They propose, however, to exclude the Hindu university at Benares and also Chiefs' colleges, which by this means become an all India subject (*item 30* of the all-India list), and they advise that new universities, the extra provincial jurisdiction of universities, and in the case of Bengal and *for a period of five years only, the Calcutta*

University and also secondary education generally should be subject to Indian legislation. They add that legislation regulating the constitution or functions of a university should be subject to compulsory reservation by the Governor. Such discriminating treatment of the subject, which leaves it partly all-Indian, partly reserved, partly transferred with limitations, and partly transferred without limitation, shows that the committee realized the great risks involved in transferring higher education entirely to the control of ministers at this critical stage in its history.

94. The opinion of local Governments is much divided. The Bengal Government desire to reserve collegiate and European education: the United Provinces Government holds that education is best treated as a whole and is prepared to transfer it, but the official committee which advised the Lieutenant-Governor were divided in opinion. The Punjab Government recognizes the dangers, things that education best fulfils the canons laid down in the Report for transfer, and reserves its opinion as regards higher education. The Government of Bihar and Orissa are strongly opposed to the transfer at present of secondary, technical and collegiate education. The Chief Commissioner of Assam opposes the transfer of collegiate education. The Government of Madras would reserve education and the Government of Bombay would transfer it. In these circumstances we feel that a heavy responsibility lies upon us. We are bound to look at the matter from the broadest point of view. From the outset the reform and extension of education has been recognized as an integral part of the process of political advance. In November 1916 we wrote:—

> "The first of these obstacles is ignorance................Great efforts have been made of recent years to extend education, but the wide diffusion that we seek is still a long way off. Even more pressing is the question of its improvement................ In our judgment the system of education in this country requires the most patient reconstruction......... In the present circumstances the main efforts both of Government and of the public can most wisely be directed to securing a standard of higher education that shall be comparable to that enjoyed by other nations and in other parts of the Empire................. The removal of ignorance," we added, was to be attained only by giving the boys and girls of India "an education that has fitted them for the walks of life in which their lot is cast." Only by its gradual removal could "the progress towards the creation of an enlightened and self-governing people over be achieved."

Your own view was that—

> "to progressive improvement in the quality of higher education and to greater diffusion of elementary education we must largely look for the means to overcome the obstacles to political progress presented by religious and social intolerance and by inexperience in public affairs. But I would add that in other countries political opportunity has often proved the cause and not the result of the dissipation of ignorance, and that education alone divorced from political opportunity will not inculcate a sense of political responsibility. What is wanted in the India of to-day, as your proposals show that you rightly apprehend, is that the two should go hand in hand."

95. The Report on reforms recognizes the ignorance of the people as a grave obstacle to political advance (paras. 134 and 187). It observes that the progress of political education must be impeded by the backwardness of general education (para. 263). It looks to popular government to promote the spread of education (para. 153), and it contemplates that the direction of Indian education shall be increasingly transferred to Indian hands (para. 187).

At the same time it proposes that the first statutory commission shall examine the development of education among the people (para 262), and it clearly regards education both as essential to further political advance and as one of the chief tests by which the work of the new popular governments will be judged With all this we cordially agree Believing earnestly as we do that political enlightenment and wise education cannot be divorced we cannot rate too highly our responsibility for the latter The task is one which we *must certainly share with the new popular governments* The complexity of the present system and its results, to both of which we shall allude in detail later, convince us that its development and improvement are far too heavy a burden for ministers alone to bear, and the main issue in our judgment is how we can best divide it The view has been suggested to us that, inasmuch as it will be from the vernacular schools that we shall draw the mass of the intelligent voters of the future, it is our duty to concentrate upon vernacular education and to leave English education, as a subject in which they will be more interested, to ministers Against this view is the consideration that English education does not so much require stimulation as skilled guidance, improvement and adaptation in the light of western experience, to the general development of the country, while it is upon the spread of vernacular education slow and laborious in the past, that the energies of political leaders can be employed with the greatest hope of rapid success The matter however is not one for speculative argument but for decision on the basis of the results of our educational work in the past, and its present arrangement After a survey of these, which in view of the gravity of the issues we make no apology for placing before you in detail, we propose to examine the arguments for and against transfer of either the whole or a definite part of our educational system, and then to make our own recommendations

96 We may best describe existing arrangements in the words of our own Educational Commissioner —

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appointments in board schools these are generally made by the boards subject to *certain rules governing qualifications leave pay etc* *But in the Bombay Presi*dency the board schools are treated almost as Government schools

Middle education is of two kinds—middle vernacular which is often classed as primary and similarly dealt with and financed middle English or Anglo-vernacular, which properly forms a section of secondary education and ought to be treated as such The proper division in fact would be primary and middle vernacular education, and secondary including Anglo-vernacular middle education

Secondary institutions are managed partly by Government, partly by local bodies but mainly by private bodies. The curricula are determined partly by the local Governments, and partly by the universities. Inspection, distribution of grants, etc., are made by the local Governments. *Appointments* in Government schools are made by Government, in aided and non-aided schools by the managing bodies. The management and subsidy of Anglo-vernacular secondary schools by local bodies were deprecated by the Decentralization Commission and by the Government of India. Sometimes, however, as *e.g.*, in the Central Provinces, municipalities do manage secondary scools. The total number throughout India so managed is, however, small. One does not desire to see any extension of the system, since it is desirable that local bodies should confine themselves to vernacular education.

Collegiate institutions are managed partly by the Government to a small extent by the university, and to a very large extent by private bodies. Their control is divided between local Governments (the *Government of India* is the local Government in the case of the Calcutta University) and the universities. The universities prescribe the curricula *and examinations*, local Governments give grants and finally decide cases of affiliation, and hitherto the Government of India have legislated. Here also local bodies manage few institutions, but their number is only six."

97. Apart from political changes, however, certain changes have been proposed in respect of higher education. Though their report is not yet formally before us we understand that Dr. Sadler's Commission will recommend that the Bengal universities should in matters of educational administration and policy be made much more independent of the local Government, but should come under the Government of India in respect of legislation, visitation, co-ordination, the encouragement of research and help in recruitment. They intend that the Government of India should make grants to the universities; but otherwise (except for that Government's legislative powers) the enforcement of the desired standards will be left mainly to the university's conscience and to public opinion. The commission think that on their technical side universities should be mainly self-governing bodies. Financial and administrative business is mainly assigned to one managing body, educational business to another; but close contact between the university and public opinion is to be secured by the establishment of a large and representative court, whose sanction will be required for any change in the university status and for any substantial expenditure. For the control of high schools and intermediate colleges a novel arrangement is proposed: the commission suggest that they should be regulated by a board which is to be partly advisory and partly executive, which will include representatives of the universities, agriculture, commerce and industry, medicine and education, presumably nominated. This board, they think, should enjoy freedom to act upon its own responsibility in framing and enforcing the regulations which it may find necessary for the welfare of secondary and intermediate education, and must be ultimately responsible to the Government and, in the event of final disagreement between it and Government, the will of the latter must prevail. The commission regard the chances of such a disagreement as extremely remote, and suggest that when it occurs, special means should be taken to mark the gravity of the situation. The local Government should have power to call upon the board to resign; but if this step is taken, papers showing the points of disagreement and the reasons for Government's action should be laid before the provincial legislature.

98 The second factor in our decision must be the results of our educational work in the past, and the reasons for the acknowledged defects in it. So far as primary education is concerned, the chief defects are well known. It is very limited in quantity, there is great wastage by the way, teachers are ill paid, poor in quality and commanding little respect, the inspection is insufficient and indifferent, as a result the course takes too long and yields but small results, and very little of the knowledge attained remains in after life. The conservatism of the rural classes and the defects of the system have in fact reacted on each other. The people need to be awakened to the value of education as making lads better farmers instead of merely spoiling them for a rural life, and the system needs to be improved by more schools, better trained teachers, better courses and better inspection, all of which means not merely money but wise outlay of it.

99 Middle education is really two fold and comprises both middle vernacular and anglo vernacular. The first is associated with primary mainly by the fact that it also is conducted in the vernacular and managed by local bodies. It is far more highly organized, is mostly concentrated in towns or villages of some size and is in the hands of better trained teachers. It attracts more promising boys and it does train their intelligence and give them a fair equipment of knowledge for the careers before them (teaching vernacular clerkships, posts as karindas and the like). The best boys go on to English schools. Middle vernacular education, though nominally managed by local or private bodies, is to a greater extent than primary education under the supervision of the department. With the anglo vernacular schools the case is otherwise. Here the main complaints are that owing to the commercial value of English, that language is often taught too early and taught badly by teachers who know it indifferently themselves, that (though in this respect matters have been improved) it is occasionally made the medium of instruction too soon, with the result that boys cannot take in the meaning of what they learn and are overtaxed in attempting to do so and that memorising without understanding too often is the chief result. The boys are ill prepared to go on to a high school and have not acquired any knowledge for any other career. At the same time there is a great demand for cheap English education, and in many parts of the country private schools are numerous, crowded and poorly equipped. Middle vernacular education marks the final stages of instruction for certain classes of the people, while the anglo vernacular school is merely the first stage of higher or English education.

100 The accepted policy as regards high schools has been to leave their management largely in private hands. Government has maintained a certain number of high schools as models, and in some provinces it exercises control over curricula by a school leaving examination. More generally the university recognizes schools for the purpose of presenting pupils for matriculation, and regulates by means of matriculation the courses of the highest

classes. The condition of secondary education can best be presented in an extract from the last quinquennial review:—

"In the first place the apparently inexhaustible demand for secondary education, combined with the difficulty of meeting it in an adequate manner, tends to swamp the effects of reform. Existing schools are improved; but new ones spring up, lowering the average of attainment and undermining discipline. One of the Bengal inspectors, speaking of Calcutta, says that owing to the demand for any education, however bad, proprietors are able to manage their schools at the lowest limit of inefficiency without fear of loss of boys. The most necessary ingredients of education, such as discipline, social life, good physical conditions and a reasonable standard of class-work, are not demanded and therefore not supplied. Boys are able to bargain with school managers for concession rates of fees, permission to accumulate arrears and certainty of promotion. The Madras report says that schools up to or over 1,000 pupils are not uncommon, with each form and class divided into several sections, and that in such schools it is found that organisation, supervision and efficiency are sacrificed on the alter of fee income. The effect of all this upon discipline and efficiency of teaching is noted in some of the reports. The school often depends upon the goodwill of parents and pupils, and, where public opinion is weak and uninformed and parents are only too ready to listen to the complaints of their children, the schoolboy becomes the master of his teachers. Faults are condoned and promotion from class to class is demanded under threat of withdrawal. Unwise promotion, says Mr. Mayhew, accentuates the results of defective instruction, hampers the progress of each class by the dragging weight of inefficients, and eventually clogs the matriculation class with an increasing number of hopeless cases.

"In the second place, there is still in some provinces the numbing influence of the matriculation. This affects the school in several ways. The majority of schools in such provinces still, as Mr. Hornell remarked in an earlier report, acknowledge no law and submit to no supervision or guidance other than that which the matriculation imposes on them. It is impossible that a syndicate sitting in Calcutta should control 789 schools distributed over an area of 78,699 square miles. Rules become relaxed, orders are evaded, and the influence of the inspecting staff is weakened. Again, these effects are produced which have already been observed in connection with the curriculum and the method of treating it, which is inevitably adopted when the sole end in view is the passing of a maximum number of pupils through an external examination. Nor is it only the curriculum which is narrowed. Scant attention is paid to these activities which ought to form so important a part of the pupil's environment. At a time of life when action is natural and essential to well-being the boy is forced into sedentary application to a course which often makes little appeal to him and in mastering which he receives but little assistance, while his chief recreation is frequently the perusal of highly spiced newspapers."

101. There are 129 English arts colleges of which 94 are privately managed, 70 of these being aided. During the last five years students increased by 59 per cent.; and of the total number more than one-third are Brahmins. The average cost per student *is under Rs. 150 a year. Some unaided colleges are far cheaper.* There is a tendency for charges to fall. There is no denying that the majority of colleges are totally understaffed and that this reacts on the life and teaching. The quinquennial report sums up matters thus:—

"The feature of the quinquennium has been the great expansion in numbers. Improvements have been effected; but these are too often nullified by the necessity of making hurried arrangements for the accommodation of additional students. The number of students per instructor is decreasing. The poor attainments of students coming from the secondary schools hamper the work of professors. Science teaching, conducted to a considerable extent in laboratories, has improved in quality. In other subjects the lecture holds the field and systematic tution and guidance are often lacking."

Five years earlier, in spite of much that was encouraging, the complaint was—

"The weak point in the system remains the striking inequality in the efficiency of different colleges—not so much in examination results, but in the conditions of study, residence and recreation and all those things that go to make up truly collegiate life."

102 A few statistics may be given to complete the picture The last published returns show that, taking public and private institutions together, we have 195 colleges in British India with 59,000 students There are over 10,000 secondary schools, with $1\frac{1}{4}$ million pupils, and 177,000 primary schools with nearly $6\frac{1}{2}$ million pupils It is now for us to advise which part, if not the whole, of this great and growing field of administration should be transferred to ministers Before we state our conclusions it will be convenient to explain the exact meaning which is attached in the following paragraphs to the expressions "primary" and "secondary" in relation to schools or education We use the words, for the sake of brevity in a compendious sense, the former including middle vernacular, and the latter middle English or anglo-vernacular But the distinction which we draw is not between vernacuar and English It is between types of schools and the purposes of their work By primary schools we mean schools which cater for the masses of the people, and in which the great bulk of the pupils are not intended to go further than a middle test of some sort In such schools the teaching is naturally in the local vernacular There is a tendency, more pronounced in some parts of India than in others to add instruction in English, but this does not alter the self contained character of the schools or their purpose, which is to prepare the pupils for the ordinary avocations of their own class of life and not for higher education or professional pursuits By secondary schools on the other hand we mean those which aim at an English education as the passport to the university or to skilled clerical or technical employment Schools of this type may include primary sections, in order that their courses may be continuous but this does not detract from their character or well recognized purpose

103 On a review of all the circumstances we consider that there is a compelling case for the transfer of primary education It is that part of the field which will give the fullest and freest pay to responsibility at once it will be most responsive to partiotic effort and it will be the nursery for the broad and enlightened electorate on which the future depends The labour of bringing primary education up to a reasonable standard the need for almost unlimited development, the difficulties of gradually making it free and then compulsory—these and its many other problems constitute a task which will be enough, and more than enough to occupy all the energy and ingenuity of ministers for years to come Heavy though the task is, in estimating its chances of success we are in general agreement with the report of a committee which considered the question in 1917 —

"At first sight this abandonment of control by the central or provincial Government of a department so vitally fundamental to a national scheme of edu[illegible] to be fraught with grave dangers Nor are these wholly illu[illegible]bable that at first efficiency will be sacrificed to [illegible]popularly elected body will vote money for the les[illegible] provision for training and inspection But un[illegible] given nothing will be learned Experience will [illegible] and that *in no long time* *Once it is realized* that education is the business of the people then the people will see to it that their elected representatives procure them efficient teachers in their schools Again,

classes. The condition of secondary education can best be presented in an extract from the last quinquennial review:—

"In the first place the apparently inexhaustable demand for secondary education, combined with the difficulty of meeting it in an adequate manner, tends to swamp the effects of reform. Existing schools are improved; but new ones spring up, lowering the average of attainment and undermining discipline. One of the Bengal inspectors, speaking of Calcutta, says that owing to the demand for any education, however bad, proprietors are able to manage their schools at the lowest limit of inefficiency without fear of loss of boys. The most necessary ingredients of education, such as discipline, social life, good physical conditions and a reasonable standard of class-work, are not demanded and therefore not supplied. Boys are able to bargain with school managers for concession rates of fees, permission to accumulate arrears and certainty of promotion. The Madras report says that schools up to or over 1,000 pupils are not uncommon, with each form and class divided into several sections, and that in such schools it is found that organisation, supervision and efficiency are sacrificed on the altor of fee-income. The effect of all this upon discipline and efficiency of teaching is noted in some of the reports. The school often depends upon the goodwill of parents and pupils, and, where public opinion is weak and uninformed and parents are only too ready to listen to the complaints of their children, the schoolboy becomes the master of his teachers. Faults are condoned and promotion from class to class is demanded under threat of withdrawal. Unwise promotion, says Mr. Mayhew, accentuates the results of defective instruction, hampers the progress of each class by the dragging weight of inefficients, and eventually clogs the matriculation class with an increasing number of hopeless cases.

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103 On a review of all the circumstances do not deny the there is a compelling case for the transfer of complete respon It is that part of the field which will give that many will feel pay to responsibility at once it will be mostiity interests which otic effort and it will be the nursery for the prehension and have electorate on which the future depends T se the future welfare primary education up to a reasonable stand decision to allow of unlimited development, the difficulties of cal considerations In and then compulsory—these and its mar plication, in the matter tute a task which will be enoug ... the mistakes of inexperi- occupy all the energy and ingenu ...ily be corrected Heavy though the task is in ens to which we appeal have been are in general agreement with supplement them by many con- considered the question in 191 ...py consequences of entrusting higher ... private enterprise We have seen provinces where high school and ved to pass largely into non official of such a system are described less essential objec ... ion and the Rowlatt reports We unless an oppor ... atched the deterioration of a fine private college in will we believ ... a under political influences If further reasons were that educa ... their ... inforce our view we should derive them from the present

conditions of scientific and technical knowledge in India. It is admitted that one of the greatest needs of the country is industrial development and wider openings for her young men in the scientific and technical professions. It is accepted that the public services must be recruited in future to a greater extent in this country. At the same time it is recognized that the possibility of these developments without a deterioration in standards lies to a very great extent in improving and extending the facilities in India for higher learning, particularly on the technical side. We cannot in the face of these plain requirements assent to a proposal to place the control of the legal, medical, engineering, technical and industrial colleges or schools of India in inexperienced hands. After the maintenance of law and order there is no matter for which the responsibility of the British Government is heavier.

108. Before leaving this subject we may revert to the argument that our educational policy has not been a success in the past. That it has at times been lacking in foresight and perspective we do not deny. During the lean years education received only such funds as were available after more imperious needs had been satisfied. Too large a proportion of the money that was forthcoming was devoted to higher education. In making the distribution which they did, our predecessors perhaps yielded too easily to the wishes of the only classes which were in a position to press their views, and took too little acount of the need of building up a sound and well-proportioned system adopted to the economic and political needs of the country as a whole. In particular they were content to let higher education pass more and more under non-official control. For the course which they took we do not doubt that they had reasons which seemed to them good and we have no desire now to allocate blame. We admit the errors of the past and we ask for time to repair them: their reparation is perhaps the most urgent task before us, if constitutional changes are to bring to India the hapiness which we hope. For these reasons we accept the committee's proposal to transfer primary education, and we strongly dissent from their proposal to transfer secondary, collegiate and technical (including medical and engineering) education. Reformatory schools should in our opinion be treated as a portion of industrial education.

109. Certain subjects or parts of subjects have been recommended for transfer "subject to Indian legislation." We have already explained (para. 12) our reasons for holding that it is not possible to restrict the transfer of any subject in this manner and in view of this decision it is necessary to amend *items 1, 9, 12, 13, 16* and *17* of the transferred list.

Item 1.—We would omit all the words after "Cantonments Act." Borrowing by local bodies inasmuch as it necessarily affects the Indian market is a matter of concern to the central Government. It should be regulated by Indian legislation, but such legislation should be included in the rules to be framed under section 79 (3) (*i*) of the Act and not open to local amendment even with previous sanction.

Item 9.—We are prepared to accept the committee's recommendation that co-operative societies should be transferred, and to

go further than the committee in transferring the subject without restriction The sphere of co operation is one which we think affords admirable scope for giving ministers a wide discretion

Item 12—Similarly we would transfer the registration of deeds and documents without restriction It is true that the matter is of great importance to owners of property and to business interests We do not anticipate that there will be any strong disposition on *the part of provincial legislatures to disturb the well* established lines on which it is now administered, but think that it will be well to protect the Indian Registration Act against any modification without previous sanction

Item 13—As the committee have pointed out in their remarks on *item 21* of the provincial list, Indian legislation in regard to the registration of births, deaths and marriages affects a comparatively small portion of the population Hindus Muhammadans and Buddhists are beyond its purview We do not consider it necessary to make such registration subject to Indian legislation in the case of this small minority, and are prepared to transfer the subject without restriction

Item 16—We would omit the words after "articles" The regulation of the export and import of adulterated articles is clearly a matter for all India regulation, and there is no need to give provincial legislatures a limited voice in it

Item 17—There is little uniformity at present in the standards of weights and measures throughout India, and we are prepared to transfer the subject If in consequence of international conventions or otherwise the need for securing uniformity by legislation arises there would be a clear case for the exercise of the central Government's overriding legislative powers

110 We have suggested (para 57) that "pilgrimages within India" be added to *item 3* of the provincial list We would also make it a transferred subject by adding it to *item 3* of the transferred list

111 The committee have recommended that all provincial buildings [*item 5 (a)*] should be transferred To accept this proposal would mean that the provision of funds for such buildings as district offices, civil courts, and police stations will be regulated by the minister in charge of the Public Works Department since provision for such expenditure is made in the Public Works Department budget and not in the budget of the department concerned The departmental budgets contain provision for such works only as the department is prepared to carry out All works carried out by the Public Works Department are provided for in that Department's budget We cannot, however, place ministers in the difficult position of having to decide between the claims upon their budget of reserved and transferred departments in the matter of *buildings, or give them power to refuse to budget for buildings* pertaining to reserved departments which the members in charge of those departments consider to be necessary The transfer of provincial buildings should therefore be restricted to those buildings which are connected with transferred departments and the buildings of reserved departments should be reserved We recognise that since the control of the Public Works Department

generally, including the control of the staff, is to be transferred, the minister will still be in a position to deny buildings to the reserved departments by refusing to carry out building schemes for which budget provision has been made. If such a difficulty presents itself the Governor must be left to deal with it: recourse to private contractors may prove to be a useful alleviation, but in any case it presents less serious prospects of trouble than the arrangement which we seek to avoid.

112. It follows from the changes which we have proposed above (para. 30) in *item 6 (a)* of the all-India and *5 (d)* of the provincial lists that *item 5 (d)* of the transferred list should be omitted Consequential changes are also required in *item 5 (b)*.

113. *Item 8.*—The committee support their proposal to transfer fisheries by the argument that the subject should not be separated from the cognate subjects of industrial development and co-operative credit. If, however, our proposals in para. 120 below are accepted, industrial development will be a reserved subject and the argument ceases to have weight. We incline ourselves to the view that fisheries are as closely connected with agriculture as with any other subject, and we agree that agriculture (*item 6*) should be transferred. We see no particular reason why fisheries should be treated in the same way in all provinces, but on the other hand we can find no strong reason for reserving fisheries in Madras, if agriculture is transferred. On the whole, we are prepared to accept the committee's proposal.

114. *Item 10.*—Bombay is the only province in which the transfer of forests is tentatively advocated by the committee. Their suggestion is strongly opposed by the Inspector General of Forests, who fears that inexpert management may result in the destruction of valuable commercial assets. He urges that if it is thought necessary for political reasons to embark on what he regards as a dangerous experiment, its scope should be confined to the comparatively restricted forest areas of the Central Circle. We realize the force of the Inspector General's arguments, but on the whole are prepared to accept the committee's suggestion as it has the Bombay Government's support. We have no objection to the transfer of forests which serve particular villages or groups of villages to local bodies subject to schemes of management to be approved by the Governor in Council. The questions of the powers of the Inspector General and of control of the senior appointments in the provinces will require further consideration.

115. *Item 11.*—The chief difficulties in regard to the transfer of excise have been noticed by the committee. We approve the safeguards provided to protect the interests of the Government of India as both necessary and sufficient. The question of the staff in Bombay and Madras will receive our careful consideration when the time comes. Difficulties are likely to occur with a staff which will be under ministers in respect of their excise duties and ultimately under the Government of India in so far as their work is concerned with salt. The only satisfactory solution may be a complete separation of the staff of the two departments, but we see no reason to defer transfer until such a separation has been effected.

We would postpone consideration of the problem of staff until we have some practical experience of the difficulties involved. While we recognise that in some provinces popular opinion may lead the legislature to take steps in the direction of total prohibition, and while we appreciate the dangers from this course of the spread of illicit practices, as well as the inconveniences which may be caused more particularly to those classes to whom drink is no real danger in India we are yet prepared to transfer excise at once. We fully realise that excise occupies a special position in Madras from the revenue point of view, but regarding the matter from the broader ground of general principles we agree with the committee that excise conditions are not so peculiar as to justify its reservation in that presidency. We agree also that excise should be a reserved subject in Assam.

116. *Item 15*.—We come now to the vital question of industries. This is practically speaking, a new administrative subject, the future importance of which has been strongly emphasised in para 336 of the Report on Indian constitutional reforms. It is moreover a field where the divergence of racial interests is likely to make itself felt with some acuteness. The committee have made the following proposals —

(1) that the development of industries be made a provincial subject, except for the matters covered by *items 20* and *30* of the all-India list (articles whose production etc., requires control in the public interest and central research institutes), and for heads such as that of geological survey (*item 22*), which relate closely to the development of industries.

(2) that the development of industries be made a transferred subject.

The committee have evidently felt that this allocation of responsibilities is not free from objection, since they admit in para 45 of their report that they have vainly tried to draw any clear line between local and other industries or to frame a distinction based on the relative importance of different industries. To draw any such distinction is, we agree, impossible but the conclusion to which the committee have been led in consequence does not commend itself to us. Our own conclusions are briefly that the development of industries should be concurrently undertaken by the local Governments and the Government of India, and that this subject should, so far as local Governments are concerned, be reserved. Our reasons for these conclusions will be stated as briefly as possible.

117. In the first place we hold that the central Government cannot possibly divest itself of responsibility for the industrial progress of the country, which is necessary to secure its military safety, its freedom from outside economic aggression, and its social and political stability. The Government of India's control of railways, tariffs, foreign trade relations and intelligence, the central scientific industries and such services as the geological survey, further emphasises their responsibility in respect of industries. That responsibility should, we think, be discharged by furnishing

had they enjoyed the sole right of action With such an allocation of functions, governed not by any paper definition, but by the practical economic facts of each case, we understand that local Governments are likely to be in agreement, it is, moreover, in our opinion the only way of solving the difficulty, though it postulates the practice of co operation between the local and central Governments The importance of this postulate will be seen when we come to discuss the next question, namely, the committee's proposal to transfer the development of industries to the control of ministers From this proposition at the present stage we entirely dissent and for most cogent reasons

119 In the first place every other form of activity which it is proposed to transfer to ministers is conducted by established Government departments with a trained personnel and well defined *traditions of procedure* In *some provinces* there are no departments of industries at all, in others they have a nominal existence, but lack expert staff and definite lines of work, in the one or two provinces where they exist in more than name they are quite rudimentary and have scarcely begun to consider how they are to handle the vastly more responsible functions and wider policy proposed by the Industrial Commission We think it impossible for a minister untrained in administrative work and inevitably devoid of industrial experience to essay this initial work with success In the next place it will be impossible outside one or at the most two provinces, to obtain Indian industrialists practically qualified to fulfil the duty of ministers of industries nor can such men be expected to seek election, save in specilized constituencies But from the activities of ministers devoid of business experience there is reason to apprehend much the same results as ensued from the entry of precisely the same type of men into the field of private *swadeshi* enterprise in Bengal in 1907 and in the Punjab in 1913 with the added difficulty that the responsibility for failure will be thrown on the Government as a whole and not on the minister himself

120 There remains however, a still more serious objection It is our earnest desire that the industrial policy of the country should be directed to securing for Indians the fullest possible participation in future industrial development The proposals of the Industrial Commission seem to us admirably adapted to secure this end The Indian press, on the other hand, appears to see in the Commission's report an attempt to rivet the chains of British economic domination still more firmly on the country This tendency was particularly noticeable in the extremist press but was not entirely absent from papers of more moderate tone A policy which seems to us to afford means of assistance especially calculated to benefit Indian enterprise is apparently considered insufficient if it also allows encouragement to British capital to come into the country and to British enterprise to profit any further by the economic resources of India In such circumstances we are not surprised to find European non official opinion expressing very definite apprehensions lest an increasing degree of self government should bring with it an increasing degree of racial discrimination We do not desire to magnify unduly the extent to which the encouragement of new

enterprise can be used to affect the success of future British effort. But we apprehend that until a far greater sense of responsibility than at present is established among the electorate and the representative assemblies, considerable pressure may be exercised on ministers to refuse any form of aid or countenance to British enterprise and to favour Indian undertakings, especially those backed by political influence, irrespective of their business merits or equitable claims to consideration. The inevitable result would be that the large modern firms, European or Indian, which have as a rule nothing to hope from political influence, but are accustomed to businesslike methods and equitable treatment, would inevitably apply to the Government of India rather than to local Governments, if the latters' functions in respect of industrial matters are in the hands of ministers. This would lead to an undue degree of centralisation, and would devitalise provincial efforts by depriving them of this most promising field of action. We therefore conclude that industries, including in this term industrial education, though they should be a provincial subject with a right of concurrent action secured to the central Government, should for the present be reserved in all provinces. We have already recommended that a new item should be inserted in the all-India list: and we would also omit *item 15* from the list of transferred subjects.

The Public Services.

121. In section IV of the report which deals with the public services the committee have a few variations to propose from our own proposals. They had these before them, but in a condensed form, and it may be that where the committee have departed from our proposals without giving reasons for doing so, our intentions were not always clear to them. In para. 70 the committee suggest that the demarcation between the provincial and subordinate services should be left to the provincial Governments. We think it important at the outset that the provincial services should be everywhere constituted on more or less uniform lines, for which reason we suggest that your sanction should be necessary to the local Governments' proposals. After the scheme of reforms has come into operation it will be open to the local Governments to vary the provincial services within whatever conditions may be laid down. The professional division will probably include not merely officers recruited on special contracts, but also officers holding appointments requiring special qualifications, which lie outside the ordinary ranks of the administrative services. We do not understand the difficulty which the committee feel about the proposal that each new permanent post should be added to the cadre to which its duties correspond. It was intended to prevent the services from being substantially altered by the device of creating new posts outside them for the purpose of providing for duties properly appertaining to the service; and for that purpose it seems to us necessary. The committee's proposals respecting temporary additions to the service and rules for allowances and foreign service are in accord with our intentions.

122. The committee agree with us that the Governor in Council should not be brought in as a formal arbitrator in public servants' grievances. They propose that the formal concurrence of the

Governor should be required before any order affecting emoluments or pensions, or conveying censure, or disposing of a memorial, can be passed in the case of all-India officers in transferred departments We accept this suggestion as formalizing our own intentions, the matter can be regulated by the rules of executive business which we propose should be made

123 On the assumption that the administration of medical matters will be a transferred subject, to which with the limitations already intimated we are prepared to agree, the committee suggest that the private practice of I M S officers should be regulated by rules laid down by you We accept this suggestion The enjoyment of private practice is admittedly one of the fundamental conditions of medical service in India, and we agree that the privilege within due limits should be secured by regulations which it is beyond the competence of ministers to alter We agree also that inasmuch as the value of private practice depends directly upon an officer's station, the posting of I M S officers should require the Governor's concurrence, but in this respect we see no need to distinguish between one service and another The posting of all India officers is a matter in which we should expect the Governor in any case to interest himself personally

124 The committee's next proposal is that any order adversely affecting any officer of an all India service, whether serving in a transferred or reserved department, shall, before issue be considered by both halves of the Government deliberating jointly We cannot accept this proposal, which runs counter to our leading principle of defining clearly the respective responsibilities of both halves of Government So far as transferred subjects go the proposed arrangement comes near to formal intervention by the Governor in Council, against which we have definitely advised So far as reserved subjects are concerned we can see no reason whatever for bringing in ministers except as a purely reciprocal arrangement Our views have been stated *at length in paras 103 to 108 of our first despatch* and *therefore we* need not pursue the matter further here As regards appeals we abide by our suggestion made in para 48 of the same despatch that disciplinary orders passed by ministers, which affects emoluments or pensions, should be open to appeal We agree that orders for the posting of I M S officers should not be regarded as orders falling within this category So far as officers serving with both halves of Government are concerned we prefer the arrangement proposed in para 51 of our first despatch to the committee's suggestion on page 48 of their report The committee's next suggestion appears to us to be already secured by the proposals in para 52 of the despatch We understand that the committee wish to treat recruitment for the transferred provincial services as a mixed subject Our view is that a minister, desiring to see any *change made*, would approach the Governor, who would certainly take action as in para 103 of our despatch, but we consider that pending legislation the matter should be regarded as a reserved subject and should not be removed from the jurisdiction of the Governor in Council We agree with the committee's proposal respecting the administration and discipline of the provincial services Finally the committee sug-

gest that so far as possible the members of all-India services should be secured in the benefits of the conditions under which they were recruited. We are heartily in accord with this aim; but we leave it for you to decide whether it is practicable to give a binding declaration to the effect that the conditions of the all-India services shall never be altered to the detriment of existing incumbents. That is a principle of administration which normally is thoroughly well recognized. But there are times when overriding considerations present themselves. It cannot be denied that the conditions of service, to interpret the term in the widest sense, are likely in the near future to be altered to the detriment of present incumbents by the process of reforms. The services themselves recognize this, and generally have no desire to oppose their vested interests to the cause of reforms or to changes thereby necessitated; but on the whole it seems to us that such a declaration as the committee suggest might give rise to controversy. We believe that it would in any case be ineffective. The only substantial safeguard that we can oppose to alterations prejudicial to the interests of the services is of a different character, and consists in the real danger of destroying recruitment. We see no need for the present to discuss the questions raised in para. 71 of the report. Details of the kind will arise for consideration under various heads: and the question how far the Government of India should control or intervene in the highest departmental appointments within the province is a matter which may be considered at leisure.

Finance.

125. We come now to the committee's treatment of the question of finance. As they explain in para. 84 they felt unable to consider the important proposals developed in paras. 64 to 73 of our first despatch, which circumstance from no fault of theirs necessarily affects the value of their contribution to the discussion of provincial finance. They have naturally not dealt with the question of provincial resources nor with the relaxation of superior control, respecting which matters we would refer you to paras. 58 to 61 of our despatch of March 5. The committee's comments in para. 73 upon our proposals for audit appear to call for no notice.

126. In para. 74 of the report the committee make certain observations upon the position of the finance department. With reference to clause (*a*) we may explain that we do not contemplate any formal reference of the finance department's opinion to the legislature. It will be available if the legislature or the committee on public accounts should call for it. Clause (*b*) discusses the finance department's relations to policy; this point is disposed of by para. 74 of our first despatch. In para. 75 (*iii*) of that document we have anticipated the committee's next remark. Their last point does not seem to us to be of much importance. Even if the Governor directed an irregularity by way of excess over the

budget provision or of re-appropriation, it would still be reported to the committee on public accounts

127 The committee (para 75) have generally accepted our proposals for the sources of taxation to be assigned to provinces As regards their comment on the phrase "unearned increment on land" we may explain that what we had in view was the rise in value of building sites near towns We are not sure if any reference to the permanent settlement was present in the committee's mind, but we think it unnecessary to speculate how future political changes may affect that question The term "unearned increment" would no doubt cover rises in *the value of* agricultural land, but in temporarily settled areas the resettlement of the land revenue takes account of these *We did not ourselves intend* enhancement of revenue to be comprised in our proposals for taxation We reserve *for closer consideration* the question of further *taxation on transfers of immoveable property otherwise than by succession* *We see* no real difficulty about collecting new sources of provincial revenue by means of stamps The fact that they were collected by such means would not necessarily make them all-India, the problem is only one of definition

128 The committee's observations upon the procedure for obtaining provincial taxation in paras 76 and 77 will not apply if our proposals for the separate purse are adopted We note that provincial taxation does not appear in their list of transferred subjects Their observation that the department which is appointed *to collect the tax should be* entitled to a hearing on the subject of its responsibilities, is covered by paras 73 and 103 of our first despatch We agree with the suggestion made in para 78 of their report In para 79 they point out that revenues can be raised and abated without process of legislation and indeed only partly with reference to revenue considerations The committee's suggestion for the treatment of such matters by the separate halves of the Government is met by our proposals for the separate purse, indeed the view they take upon the point goes far to reinforce our arguments Their suggestion in para 80 upon the subject of borrowings has been anticipated in paras 62 and 72 of our first despatch Their proposals *in para* 81 *of* the report *for* the *treatment* of *provincial balances* are, we think, disposed of by our recommendations in para 70 of the same paper

129 Para 82 of the report raises a question with which we have not so far dealt We agree that it is as necessary to define the normal sources of local taxation as of provincial taxation A local body may attempt to appropriate to its own purposes sources of revenue that are really provincial as well as sources that are all-Indian but it seems to us sufficient to prescribe that the existing scope of local taxation, so far as it lies outside the provincial schedule, may not be exceeded without the previous consent of the Government of India, we may leave it to the provincial Governments to protect their own revenues against the incursion of local bodies' taxation As regards para 83 of the report we think that borrowings by local bodies in the Indian market should be subject to the same control as at present

Conclusion.

130. We desire to bear testimony to the ability and thoroughness with which the committee have discharged a very difficult task, and have presented us with a scheme which with the modifications that we have suggested, we accept as a practical solution of the problem. Compared with the simplicity of present arrangements it is necessarily complicated. So far as reserved subjects are concerned we do not think this greatly matters. The cardinal principle laid down in para. 24 of the committee's report will enable control to be exercised where necessary in an effective and at the same time a flexible manner. In the case of transferred subjects we realize that there are necessarily several points of contact on which difficulty may arise between the popular part of the provincial Governments and the Government of India, as for example in the case of excise, education and medical administration. At the same time we readily accept this possibility as part of the price of our reforms. We think that the committee have been successful in avoiding intricacies, and in rectifying frontiers as far as possible. We must rely for help in the solution of difficulties on the Governor's powers in relation to ministers; and also on the fact that the Government of India, being agents for Parliament which must remain the paramount authority, can never sink to the level of a merely federal government. In all its main aspects therefore and with the modifications which we have suggested we cordially accept and endorse the committee's scheme.

131. Our colleague Sir Sankaran Nair has stated in a separate minute the extent to which he dissents from our conclusions.

We have the honour to be,

SIR,

Your most obedient, humble Servants,

(Signed) CHELMSFORD.
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,, C. S. NAIR.
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The reforms are a gift of Parliament, not of the Civil Service The Parliament may take it away at any future time if they chose The future Legislative Councils have to perform their duty to the people of India and to Parliament But to place this weapon in the hands of the Civil Service is in all probability to ensure the failure of Reform They should not be allowed in future, as they have done in the past to nullify the policy of the people of England The scheme put forward by my Colleagues is calculated to produce that result It creates possibilities of frequent deadlocks if the Minister and Legislative Councils perform their duty to the country and to Parliament and makes that a reason for getting rid of responsible government

The interposition of the Secretary of State is no safeguard as in all that I have said above the Secretary of State has allowed himself to be merely a passive instrument in the hands of the Civil Service I can only say that if I had felt such a standing threat necessary I should not have asked for any substantial reform in the direction indicated and I would not have regarded it as a loyal acceptance on my part of the principle of responsible government which must now be taken to have been laid down by Parliament for application to India I am glad therefore the Committee do not endorse this proposal

5 The financial or budget proposals of my Colleagues are in conflict with the recommendations of the Functions Committee based on the unity of Government The latter make the Governor practically the final judge where the functions of the reserved and transferred departments touch or overlap including all financial questions like the division of the entire provincial revenue between the two halves of the Government or where the action taken in one department affects the other and also make the Minister responsible for action in the transferred departments even when it is deflected by considerations affecting the reserved departments The proposals of my Colleagues are also admittedly in conflict with the recommendations made by the Committee about taxation (see paragraphs 76 and 77) which were not before the Council when we settled our despatch dated the 5th March

The Committee have come to the conclusion that taxation for provincial purposes should be regarded as a transferred subject They would first set apart the contribution to the Government of India the sums required for the service of the provincial debt and the sums that are required for the reserved services The first two are definite amounts The third will be definite if we assume the contribution to be the previous year's allotment or the average for a certain number of years After setting apart these amounts they regard the whole balance of the revenues of the province to be at the disposal of the Minister, and taxation in their opinion should be considered as a transferred subject Any difference of opinion on any question to be settled by the Governor as a "mixed subject" This of course is in direct opposition to and far preferable to the scheme put forward in the Government of India despatch to which I have taken exception

6 My Colleagues are of opinion that these and certain other proposals of the Committee which have an important bearing on the

from the Government of India in almost all these proposals. The Committee do not endorse the proposal for the transfer of any subject from the transferred to the reserved list. The Governor will always have to find a Minister to administer the transferred department, *i.e.*, an elected member of the Council who alone is always to be responsible for that department; but it is never to be administered by the Governor in Council and the Governor himself only administers it as a substitute for the Minister during the interval between the dismissal of one Minister and the appointment of another. This, of course, is very different from the proposal of my Colleagues which enables the Governor to keep the portfolio in his own hand until the Legislative Council yields to his wishes. According to the Committee, the Governor is to decide not only the question of jurisdiction but also all cases of disagreement between the Executive Council and the Minister. He will have to enforce compliance however by the Executive Council under section 50 of the Government of India Act if they prove obdurate but can require action by the transferred department in ordinary cases only if he can find another Minister but in *mergent* cases can dismiss the Minister and take the necessary action himself. But he has soon to find the Minister. Emergency is thus provided for. The transferred department will always continue as such. This is reasonable but it may be doubted whether the simpler method in the Reforms Report under which the Governor's decision is declared to be the order in the case is not preferable.

The *temporary* nature of the resumption by the Governor and that also *only* in cases of emergency is essential according to the Committee; thereby they place the Minister in relation to the Governor in a higher and certainly not a lower position than the Executive Council. The question of transfer is so important that I venture to make again a few observations in view of what is now repeated in paragraph 87 of the despatch.

4. I cannot too strongly protest against the proposal to allow the Governor to resume the portfolio of any transferred subject and to empower the Secretary of State on the motion of the local Government and the Government of India to retransfer any subject from the transferred to the reserved list. As I have said before, it cuts at the root of the whole scheme. Let us see what this implies. The Reforms Scheme is intended to release the duly elected representatives of the people, in part at any rate, from the control of the Civil Service. The Indian opinion is unanimous that this step is necessary in the interests of good administration and is due to the failure of the Civil Service to carry out the intentions of the Parliament and of the people of England. The Governor in some provinces is likely to be a civilian for some time to come. In others he will be greatly under civilian influence. In these circumstances the provision of retransfer is, and will be received as, a warning to the Legislative Council not to indulge in a course of action which will lead the Civil Service to take that step. In fact, my Colleagues practically say so in clear terms. The Civil Service have also openly declared their hostility to any real reform. It is absurd in these circumstances to place the future of Indian constitutional reform in their hands.

The reforms are a gift of Parliament, not of the Civil Service The Parliament may take it away at any future time if they chose The future Legislative Councils have to perform their duty to the people of India and to Parliament But to place this weapon in the hands of the Civil Service is in all probability to ensure the failure of Reform They should not be allowed in future, as they have done in the past to nullify the policy of the people of England The scheme put forward by my Colleagues is calculated to produce that result It creates possibilities of frequent deadlocks if the Minister and Legislative Councils perform their duty to the country and to Parliament and makes that a reason for getting rid of responsible government

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the control of the legislature by giving too wide a power of certification to the Governor The proposal that the supply for reserved subjects should be a prior charge on the provincial revenues was attacked, and it was pointed out that Ministers driven to new taxation *to be proposed on their own responsibility while possibly feeling that it may have been unnecessary if an excessive share of the provincial revenues had not been absorbed by the already fully developed reserved subjects, would very likely find themselves in an almost* untenable position before the Legislative Council whose support they require Such was the criticism, what are the proposals of my Colleagues?

9 There can be no objection to the proposed Audit and Exchequer Act or to the appointment of the proposed Committee on Financial Relations The control over provincial balances now exercised by the Government of India also may be replaced by a few simple regulations which will increase control of the provinces over them There may also be—it is advantageous that there should be—a common Finance Department for both halves of the Government While it would scrutinize all proposals of expenditure, it should not, *as stated by the Functions Committee, have power to criticise policy except in its financial aspect The proposals that the right should be reserved to the central government to make supplementary levies* upon provinces that each half of the Government should have a defined power of raising the revenue to provide for the expenditure which it considers necessary that a division should be made of the resources available for the purposes of either half of the Government, that a system of assignments of revenue by one section of the Government to the other should be introduced and other and similar proposals, will have the effect of dividing the Government into watertight compartments without the compensating advantage of making them responsible to the Legislature, while the further proposal that Council resolutions will have only the status of recommendations to the Governor in Council as well as the Govenror and Ministers, reduces the Council *to as much impotence as the present Councils The remaining proposal that the Ministers may have to resign on* account of budget resolutions carried against them, is of the nature of a finishing stroke Notwithstanding much that could be said against the Reforms Report Scheme, a number of critics rallied to its support for the reasons, among others, that it provided for a unified budget and for its being voted by the Legislature We are now asked to treat the Council as an advisory body in all matters—legislative, financial and administrative—pertaining to the reserved departments and to reduce its financial powers as proposed in the Reforms Report Scheme even as regards the transferred departments There is no necessity to modify that Scheme in this manner and to this extent Assuming that all the adverse criticism to which its *financial proposals have been subjected is well-merited and that it will not be possible to work it without the maximum of friction,* it is still possible to retain its two cardinal features of a single budget for the province and control by the Legislature, whatever other modifications are made in it Given a common, Finance Department, a common Finance Committee of the Council, and joint deliberation by the whole Government in the settlement of the allotments, there

is no difficulty of retaining these features. It is a strong point in favour of the Reforms Report Scheme of budget procedure that it minimizes the drawbacks of a system of dual government in provinces and gives both to Executive Councillors and Ministers opportunities of sympathetically influencing each other's decisions to the advantage of both and of the people of the province. The Governor, too, will be in a better position to discharge his duties as head of the whole government and promote friendly relations between its two halves. The knowledge that Ministers with their responsibility for the transferred departments have also been a party to the allotments made for reserved subjects, is calculated to induce in the Legislative Council a conviction of the necessity of those allotments and to minimize the chances of their seeking to cut them down. This will be of great moral value as it will curtail the necessity of the Governor's making use of his reserved power of certification which cannot but cause friction and conflict between him and his Executive Council on the one side, and the Ministers and the Legislative Council on the other. The financial dispositions of each year can be made with reference to the particular requirements of that year, there will be a much-needed and most useful element of elasticity imparted to the financial arrangements, and when a proposal of new taxation is made in those circumstances, the Legislative Council will more easily persuade itself to accept it and support the Government than it can be expected to do under a system such as is proposed by my Colleagues now. The control by the Legislature must in any event be regarded as indispensable if the Reforms are to be worth anything in the eye of even the supporters of the Scheme. The unified budget could be there and for the present should be. What is put forward is a combination of the drawbacks of autocratic and responsible government with none of the advantages of the latter. Under the proposed scheme the position of Ministers will be untenable and that of the Legislature, no better than it is at present.

10. Let us see whether the scheme put forward by my Colleagues cannot be modified to preserve the unified budget and control of the Legislature, and meet generally the objections which they have advanced against unified budget. The proposal to divide the free balance and to divide the surplus may be accepted. We may also provide for the contribution of the province to the central exchequer for the charges for existing loans and, if necessary, earmark a sum in provinces liable to famine for famine fund; and, as stated by the Functions Committee, allot a sum for the reserved services. The Committee themselves *do* not mention how that sum is to be ascertained. We may take the amount of the previous year or the average of the three years. Then instead of a definite allocation to each half of the Government of the receipts from the reserved and transferred subjects respectively, we may divide the amount available in certain proportions between the two halves of Government. The proportion, of course, will depend upon the subjects transferred. The share allotted to the reserved department will provide for the normal growth of the reserved services. The non-official Members of the United Provinces Legislative Council at their meeting on the 13th August 1918 suggested a

share of one-tenth for the reserved department Any additional amount required may be allotted by the Legislative Council

11 A proposal was noticed in the Reforms Report to appoint a joint committee representing both official and non-official views dealing with both reserved and transferred subjects which should hold good for a certain period, always supposing that it can be varied in the meantime by agreement confirmed with the assent of the Legislative Council The suggestion was rejected by the authors of the Reforms Report on the ground that the Governor's decision would be more popular with Indians Speaking generally, it may be said that *if* an impartial committee could be had their decision would undoubtedly be more satisfactory Under any scheme the provisions in the Reforms Report which are endorsed by the Functions Committee that the resolutions of the Legislative Council should be binding on the Minister so far as his allotment is concerned and should be binding on the Executive Council so *far* as the *application* of their amount is concerned with a power to the Governor to restore any provision so far as the reserved departments are concerned if he thinks it necessary for the administration of those subjects should be maintained There is no harm in giving such power if the claim of the reserved departments is limited to a share as proposed

12 We may now consider these various schemes including that in the Reforms Report with reference to the proposals of the Functions Committee about the division of subjects And I hope to show that the scheme put forward is far better than the scheme of the divided purse based upon the division of subjects put forward by my Colleagues The administrative machinery, it appears to me, would run smoothly, no invidious distinction would exist between Councillors and Ministers or Reserved and Transferred Departments The Legislative Council would have the same control as allowed to it by the Reforms Report Scheme There would be no occasion for referring proposals for taxation to the Grand Committee as required by the scheme of my Colleagues This removal of all question of taxation from the Legislative Council, it appears to me, is a fatal objection With reference to the division of subjects it would also appear that the Reforms Report Scheme is far preferable to the scheme of my Colleagues

13 The following table shows the division of the list of Provincial subjects between the Reserved and Transferred Departments The omissions are immaterial

LIST OF PROVINCIAL SUBJECTS

Reserved Subjects	*Transferred Subjects*
1 Irrigation and Canals, Drainage and Embankments, and Water Storage	1 Local Self Government, that is to say, matters relating to the constitution and powers of Municipal Corporations Improvement Trusts District Boards Mining Boards of Health and other local authorities established in the province for purposes of local Self Government
2 Land Revenue administration as described under the following heads — (*a*) Assessment and collection of land revenue, (*b*) Maintenance of land records, survey for revenue purposes, records-of rights,	2 Medical administration, including hospitals, dispensaries and asylums and provision for medical education

Reserved Subjects.

(c) Laws regarding land tenures, relations of landlords and tenants, collection of rent;

(d) Court of Wards, Encumbered and Attached Estates;

(e) Land Improvement and Agricultural Loans;

(f) Colonization and disposal of Crown lands and alienations of land revenue.

3. Famine Relief.
4. Land acquisition.
5. Administration of Justice.
6. Administrator General and Official Trustee.
7. Judicial stamps.
8. Development of mineral resources.
9. Industrial matters included under the following heads:—
   (a) Factories;
   (b) Settlement of labour disputes;
   (c) Electricity;
   (d) Boilers;
   (e) Gas;
   (f) Smoke Nuisances; and
   (g) Welfare of labour, including provident funds, industrial insurance (general, health and accident) and housing.
10. Police, other than Railway Police.
11. Miscellaneous matters:—(a) regulation of betting and gambling, (b) prevention of cruelty to animals, (c) protection of wild birds and animals, (d) control of poisons, (e) control of motor vehicles, and (f) control of dramatic performances and cinematographs.
12. Control of Newspapers and Printing Presses.
13. Coroners.
14. Criminal Tribes.
15. European Vagrancy.
16. Prisons and Reformatories.
17. Pounds.
18. Treasure Trove.
19. Government Presses.
20. Franchise and elections for Indian and provincial legislatures.
21. Regulation of medical and other professional qualifications and standards.

Transferred Subjects.

3. Public Health and Sanitation and Vital Statistics.
4. Education.
5. Public Works included under the following heads:—
   (a) Provincial buildings;
   (b) Roads, bridges and ferries, other than such as are declared by the Governor-General in Council to be of military importance;
   (c) Tramways within municipal areas; and
   (e) Light and Feeder Railways, and Tramways, other than tramways within municipal areas.
6. Agriculture, including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insects and pests and prevention of plant diseases.
7. Civil Veterinary Department, including provision for veterinary training, improvement of stock and prevention of animal diseases.
8. Co-operative Societies.
9. Excise.
10. Registration of deeds and documents, subject to Indian legislation.
11. Registration of Births, Deaths, and Marriages, subject to Indian legislation for such classes as the Indian legislature may determine.
12. Religious and Charitable endowments.
13. Development of Industries, including industrial research and technical education.
14. Adulteration of foodstuffs and other articles, subject to Indian legislation as regards export trade.
15. Weights and Measures, subject to Indian legislation as regards standards.
16. Museums (except the Indian Museum and the Victoria Memorial, Calcutta) and Zoological Gardens.
17. Fisheries.

Reserved Subjects	*Transferred Subjects*
22 Control of members of All India services serving within the province, *and of other public services* within the province	18 Forests in Bombay only
23 New provincial taxes, that is to say, taxes included in the schedule of additional provincial taxes (v paragraph 75), so far as not included under previous heads But see paragraph 76 of the Report	19 Ports
24 Borrowing of money on the sole credit of the province	20 *Inland Waterways*
25 *Imposition of punishments by fine,* penalty or imprisonment, for enforcing any law of the province relating to any *provincial* subject	
26 Any matter which, though falling within an All India subject, is declared by the Governor General in Council to be of a merely local or private nature within the province	
27 *Provincial Law Reports*	

14 It appears to me that there is a fundamental objection to the proposal of the Government of India to make the division of subjects any basis for the allocation of revenue The division of subjects is made on certain considerations which have nothing to *do with the revenues derivable from those subjects* The Functions Committee were invited to make this division in accordance with certain considerations set out in the Reforms Report which had nothing whatever to do with the funds to be placed at the disposal of the two halves of the Government respectively The Report of the Committee shows that they had in view those considerations *and none other* My Colleagues, *therefore* I think, are not justified in allocating to each half of the Government the revenues derivable from the subjects allotted to those halves on considerations which had nothing to do with the incomes therefrom It is possibly this fact which made the Committee recommend that taxation should be a transferred subject because they must have *felt that the division of subjects ought not to carry* with it the allocation of the revenues derivable from those subjects or the right to raise revenue by taxation from those subjects If therefore we accept generally the recommendations of the Committee about the division of subjects, I think we are bound also to recognise the fact that they must have felt that the administration of transferred *subjects could not be carried on with the revenue derivable from* those subjects, and therefore the right to impose taxes including those which are referred to in paragraph 75 of the Report, must be given only to the Minister in charge of the transferred departments and should not be a reserved subject

15 It will appear from this table that the chief earning departments come under the "Reserved" head The executive council

will benefit not only by the normal growth but will be able to increase their land revenue by executive action without recourse to the Legislature. The great spending departments on which the real progress of the country depends are the first six items in the list of "Transferred" Subjects. There is very little doubt that the Executive Council in charge of the "Reserved" departments will seldom be under the necessity of claiming any contribution from the Minister in charge of the "Transferred" department for the administration of their subjects. The Minister, on the other hand, will never have a sufficiency for his expanding departments. He will always want the full amount which can be obtained from his Subjects and much more. His Subjects are not expanding sources of revenue. Excise ought not to be, and in Indian hands will not be, an increasing source. But is he likely to get anything from the "Reserved" departments? I feel fairly sure that the revenue obtained and obtainable by the Executive Council will set the standard of their expenditure. The Services are under them and we know from experience that there is no limit to their demands and to the general sympathy with which requests for new appointments to be filled by English officials, for allowances for them, and for increase in their pay or pensions, is viewed by the Executive Council. The Minister in charge of the "Transferred" departments will be at the mercy of the Executive Council if there is no external control. From this aspect let us see how far the schemes are free from the criticisms which have been urged against the scheme in the Despatch dated 5th March (see paragraph 69).

16. The first objection is that overdrafts on provincial balances, taxation and provincial borrowing would require a clear demarcation of each half of the Government; my scheme provides for a clear demarcation by assignment of a share; further no taxation or borrowing ought to be allowed and no responsible Governor will allow it if the Reserved department is in possession of funds as they will be according to this division of subjects which, considering the comparative needs of the two departments should be shared with the other. If therefore the Governor or some external authority is not allowed to allocate from the Revenues in one Department a certain sum for the benefit of the other, deadlocks are inevitable. There will be none under the Reforms Report scheme or Functions Committee scheme as the power of decision is left in the Governor or under the scheme I have put forward which does not allow comparative disparity of income. If such power is given to the Governor, we stand exactly where we stood under the Reforms Report scheme which also requires a decision in case of difference by the Governor. As to the provincial balance, my Colleagues have not yet decided as to the authority who is to make that division. I presume it must be the Governor. Apparently, we are not therefore better off. Again, it is unlikely that there will be such provincial balances for division in the future, as both the departments unfettered as they will be by the rules of the Imperial Government, will utilize the resources at their disposal or at least earmark the same. It may also be that they may in future utilize the balance, as they ought to, in reduction of the debt.

17 The second objection given is that one half of the Government should not have power to refuse funds which may be required for the working of the other half I have already pointed out in my Minute of Dissent that my Colleagues ignore the power of the Governor to decide in cases of dispute, and that this objection therefore can never arise under the Reform Report scheme Disregarding, however, the Governor's power for the moment, the new scheme put forward by my Colleagues will, if this division of subjects is to be maintained, never leave for the reasons I have given any room for intrusion by the Minister and his Departments except as an importunate supplicant The work of the Executive Council which will be in possession of by far the major portion of the funds will seldom be *interfered* with by the other The scheme therefore does not comply with the condition or meet the difficulty to the same extent as the other two schemes According to my Colleagues taxation will be possible only for the Executive Council and not for the other, and to me it appears to be out of the question to allow a power of increasing the land revenue in any form either by taxation or by settlements for their benefit, while it is to the land we have to look for the development and expansion of the important transferred departments

18 The third objection about the friction which the annual allocation of funds will generate will arise in this case also though in a form very prejudicial to the Minister and the Transferred Departments who will every year have to claim contributions from the Executive Council According to this scheme the Minister will be at the mercy of the Executive Council while according to the Reforms Report and the Functions Committee the Governor will decide between the two—a fairer arrangement, while under the third scheme even the Governor is eliminated and one is not at the mercy of the other

19 The fourth and last objection concerning the incentive for each department for the development of its own resources is, it appears to me, fatal to the entire scheme For what does it amount to? Take the instance of land, which is the most important source of revenue to the province The Executive Council, under the scheme, will not only take the normal growth of land revenue but would be entitled to increase it by periodical settlements without any recourse to the legislature Even under normal conditions they will have, compared to the Minister ample revenue for their needs but there is little doubt that pressure will be put upon them by the English Services for increase in their establishments pay and services—a pressure to which they would not be unwilling to yield It is very probable, therefore, that the raiyat already impoverished will be further harassed The developments of the transferred departments essential to Indian progress will be retarded The result will be the same with reference to all sources of revenues The Minister and the Executive Council are invited by this proposal to raise as much revenue as they could, nothing can be more prejudicial to the interests of the country It appears to me therefore that the scheme of my Colleagues, under these

conditions, will be fatal to the prosperity of the country. Again in principle it is not right that the country as a whole should not benefit by the normal growth of revenue. Neither the scheme in the Reforms Report nor the 3rd scheme is open to this objection. Nor does it appear to me that the scheme of my Colleague, complies with the conditions which they themselves have laid down that the scheme is intended to tell each department what range of expenditure it may provide for; as in the case of the Minister, the expenditure can never be limited by the receipts from his earning departments and the opening balance at his credit but will be dependent upon what he thinks he should fairly demand from the other departments and also by the proceeds of fresh taxation.

It appears to me that all the reasons which have prompted these new proposals can be attained under the third scheme. It is unnecessary to create two separate pools by receipts from transferred and reserved subjects.

Land Revenue.

20. Indian poverty is attributable to the land revenue policy and the industrial policy hitherto followed, and it is satisfactory to find that the Committee recommend that taxation for imposing cesses on land and duties upon the unearned increment on land should be treated as a provincial subject (see paragraph 75) and also a transferred subject (paragraph 76) though apparently by an oversight they do not include taxation in the transferred list. The Government of India also agree that such taxation should be imposed by provincial governments without the previous sanction of the Government of India. The Committee state, however, (paragraph 79) that as the assessment of land revenue is left to executive action, the periodical settlement of land revenue must be treated as a reserved subject within the jurisdiction of the Executive Council only. It appears to me that these two propositions are incompatible. Cesses and duties cannot be imposed on land by the legislature without regard to the revenue imposed thereon by the Executive Council and *vice versâ*. The one is dependent on the other; and if the Committee's views are to be maintained, they will have to be treated as a mixed subject in which the Governor's opinion should prevail in case of any difference of opinion between the Executive Council and the Minister. In my opinion, however, there should be no increase of revenue merely be executive action. The land revenue or land rent should be treated as revenue pure and simple to be imposed only by the Legislative Council. At present, outside the permanently settled zemindaries, the theory maintained by the Executive Government is that land is the private property of the Crown, the landholder being bound to pay any assessment that may be fixed by the Executive Government at their discretion. India is the only country in the world where neither law, nor custom nor competition determines the revenue or rent. This has been responsible to a great extent for the increasing poverty of the country. It has certainly

tended to keep away labour and capital from land. It appears to me to be therefore essential that the proposal of the Functions Committee that the entry "Duties upon the unearned increment on land" "should be so framed as to make the provincial powers of land taxation as wide as possible" should be accepted so as to cover the case of land revenue assessment referred to in paragraph 79. This may be done by altering the entry into "all demands upon land" and by making the imposition of any revenue on land either by legislation or by periodical settlements a transferred subject. In the alternative, I would urge that it should at least be laid down that (1) the general principles of land revenue assessment be embodied in provincial legislation as recommended ten years ago by the Royal Commission on Decentralization, and (2) every proposal of resettlement of a district be embodied in a bill that should be passed by the Legislative Council like any other taxation bill.

Industries.

21. The proposal of the Committee to transfer all questions of industrial development in my opinion should be accepted. As my colleagues are unwilling to accept this proposal, it is desirable to state the present situation. India we know was a great manufacturing country whose wealth attracted the East India Company. Before the Mutiny her industries were by deliberate policy of active discouragement in India and by prohibitive duties in England destroyed. She was thus reduced from an Agricultural and a manufacturing to an agricultural country. The general policy of the subordination of Indian to English commercial interests has since continued to the present day. India has been utilized for the exploitation of her natural resources for the investment of English capital and for the dumping of English goods. Instead, therefore, of the Indian industries relieving the pressure on land, their ruin has thrown millions of workmen out of employ to compete with the agriculturists. This attitude of the Government has materially contributed to the unrest and disaffection in the land. It is therefore essential that we should adopt a course which would place us beyond suspicion.

We know now that there are Trade Commissioners whose business it is to find out the natural resources and facilities for trade—English trade in particular—that exist in the country. The results of their observations are to be made the basis of expert advice as to the best mode of utilizing those natural resources in the interests of English trade. It is true that the information would be equally available to the Indian public but we know that it is the commercial organizations in England that would be able to utilize them. There is no objection, of course, to the export of our raw products without detriment to the interests of the country itself, but she should not be deprived of the means of creating her own manufacturing industries and employing her own labouring population. This can only be done if the development of Indian industries is a "transferred" subject, otherwise a

great export of foodstuffs tending to the starvation of millions not only by depriving India of her foodstuffs which she badly wants, but also by depriving her of great opportunities which the manufacturing industries will afford her, will be the result.

Similarly, as to the investment of English capital. We know that we cannot do without English capital, but we must obtain it on the same terms generally on which it would be lent to the colonies and other countries. The terms must be those agreed upon between the English capitalists and competent Indians who will protect Indian interests. The English officials in India and the India Office have not in the past protected India. They have submitted to English capitalists and I have no doubt will do so in future. We want also Englishmen to start industries in India but not to the detriment of indigenous industries. It is quite clear to me that unless there is an Indian to protect Indian industries, we will have English firms starting industries on a large scale in India in which the Indians will have very little share to the detriment of Indian industries.

That unfair means have been adopted to hamper Indian industries for the benefit of Lancashire and other capitalists is well known. Unfair competition should not be allowed.

For these reasons, if we do not leave the development of Indian industries in Indian hands, I feel satisfied that the same course will be followed in the future as in the past and will lead to increased irritation between Indians and Englishmen. Development of Indian industries should be a transferred subject. If any right of interference or advice is left to the Government of India, such power should be exercised only by an Indian Minister controlled by the Legislative Council. There is no objection whatever to the Government of India themselves starting any industries. But their further proposals as to advice to be tendered to Local Governments will repeat all the evils which have been condemned in paragraphs 117 to 119 of the Reforms Report. These proposals of my Colleagues to diminish popular responsibility and reverting to the old practice would appear to go against that part of the Reforms Report. The efforts of Provincial Governments in the past, meagre as they have been, have been hampered and not stimulated by the necessity under which they lay of obtaining the sanction of the Government of India and the Secretary of State at nearly every turn. More progress in the desired direction would have been made if they had had greater freedom of action.

I shall briefly notice some of the objections to transfer the development of industries to the Ministers. It will be noticed that according to the Functions Committee articles whose production, etc., requires control in the public interests and Central Research Institute and such heads as the Zoological Survey—are all-India subjects. In fact, it is a part of the scheme generally advocated by Indians that the Government should itself undertake the responsibility of starting and maintaining certain kinds of industries, which cannot be started or maintained by private enterprise. It is therefore not an argument against the transfer that the Central Government itself should maintain those

industries which are required in the interests of military safety or political stability In fact, such industries would afford scope for the training and employment of those Indians in higher branches who are competent to profit by it They have nothing to do with the question of the development of industries If on the other hand, as my Colleagues seem to contemplate such industries are placed in the hands of foreign companies with loans, guarantees or undertakings to purchase products they will not only stand in the way of the growth of indigenous enterprises but as in the case of railway companies will not assist Indians The policy is opposed to the current view to nationalize such industries wherever possible and will conduce to labour trouble in an acute form, widen the gulf between capital and labour and increase racial friction It appears to me therefore that it is wrong to say that the committee have ignored this aspect of the case The argument that the Ministers will inevitably be devoid of industrial experience as if the civilian member has great experience, is a strong condemnation of the proposals of my Colleagues to leave in the hands of the Governor the power of the appointment of Ministers It is the policy that has been hitherto advocated by Indian publicists that has now been finally accepted even in England and by the Industrial Commission and there is little doubt that Indian Ministers can be found who will be competent to do the work Lastly it is said that there is a racial question involved, that considerable influence would be exercised on Ministers to refuse any form of aid or countenance to British enterprise and to favour Indian undertakings So far as Indians are concerned this charge is absolutely unfounded Objection to the English capital and enterprise is raised only when that stands in the way of Indian enterprise and Indian prosperity And to remove any such misapprehension is it difficult to provide safeguards similar to those proposed by my Colleagues in other cases? But I assert without hesitation from experience that so far as the Government are concerned the fear that they will unduly favour foreign enterprises to the prejudice of Indian enterprises is well founded It is true enough that the Industrial Commission makes recommendations themselves unsatisfactory which in some respects may assist the Indians but here again we know from experience how little we can rely on such recommendations when they have to be carried out in practice

Tramways, Light and Feeder Railways.

The Functions Committee have recommended that Light and Feeder Railways and Tramways should be in the list of Transferred Subjects under the control of the Indian Minister My Colleagues would now transfer them to the " Reserved " List The reason is that the Minister and the Legislative Council might interfere with the scheme of Railway development Indian opinion is unanimous that Districts Boards should, in the interests of national progress be allowed to build light railways, and the decision of my Colleagues is calculated to subordinate national interests to the interests of capitalists railway companies

Existing contracts and guarantees will, of course, be protected, and further means can be easily provided for that purpose if the Governors' control is not sufficient. I would accordingly accept the recommendation of the Functions Committee.

Education.

22. It is necessary to have the issue clear before us. The question is not one between official control and university control, as it is supposed by those who put forward the findings of the Sadler Commission against the transfer of the subject of education. The question simply is whether whatever official control is to be exercised by the provincial governments should be exercised by the Minister. If there is no control to be exercised over university or secondary education, *cadit questio.* If there is any control, then should the Executive Council exercise that power or the Minister and the Legislative Council? Again, so far as the Government of India is concerned, what powers should be left to the Government of India; and, if so, who should exercise them? These are the questions.

The Functions Committee have proposed that Education as a whole should be transferred. My Colleagues would transfer only Primary Education. They would fix no limit of age which they leave to be fixed by the Minister, subject to the control of the Legislative Council. They would not fix the curriculum, *i.e.*, whether the entire teaching in all the subjects should be in English or whether English should be taught only as a subject, and what the other subjects are which should be taught. These also are to be left to the Minister and the popular assembly. It appears to me to be impracticable to divide the subject of Education like this. Hitherto no such division has been made anywhere in India.

Assuming, however, such a distinction can be made, should it be carried out? ... [illegible] ...gn service with different ideals might be able to impart ed[illegible] ...e leaders of the people, leaving it to them afterwards to [illegible] ...essary [illegible] impart education to the people of the count[illegible] ...ppe[illegible] ...th all respect, that it is absurd to expect [illegible] ...rt [illegible] ...ation to a foreign race. The Reforms [illegible] edu[illegible] ...ess to the popular assemblies, and there [illegible] oub[illegible] ...alone can obtain the money required [illegible] ...n [illegible] ...ent. Further, political progress is [illegible] ...nsion of [illegible] education, and such [illegible] ...e hands [illegible] have hitherto c[illegible] ...an [illegible] ...onal [illegible] ...dians are deeply in[illegible]

I have [illegible] F[illegible] for more than thr[illegible] progress depends [illegible] ...ce, Sir

Harcourt Butler, also would make it a transferred subject. The only other member of Indian Government who has been an Education member since the creation of the Department, Sir Claude Hill who is unfortunately not here to sign the Despatch has recorded his opinion in favour of transfer. The Governments of Bombay, the Punjab and the United Provinces would transfer education as a whole. The Madras Government would not transfer any branch of education. Bengal and Assam would not transfer collegiate education but my Colleagues, like myself, are of opinion that this cannot be done if secondary education is transferred. Bihar and Orissa alone is opposed to the transfer of secondary technical and collegiate education. My Colleagues would transfer primary education while the reasons given in their report, if they are correct tend inevitably to the conclusion that it is primary education that should be kept in the hands of the Government and that higher education may safely be transferred. Those who would keep education a reserved subject, do so I fear not in the interests of educational progress but for political reasons. They have themselves no scheme of education in view and their predecessors have been going on making experiment after experiment all in the face of Indian protest which they themselves have now to acknowledge had ended in failure. I should like briefly to refer to our educational policy.

A retrogressive policy has been followed since Lord Dufferin's time. Considering the vast problem that lay before the Government it had been laid down that the Government should welcome every kind of private endeavour to supplement their efforts for the education of the country. Lord Dufferin's Government however declared that the Government should retire from any part of the field which could be or should be, left to private effort and made educational progress depend on private endeavour aided by Government grants. The results on secondary and collegiate education were deplorable. National education not being recognised by Government as an obligation the pupils were left to study in such schools and colleges as were maintained by private effort. Such schools were inadequate in numbers to receive the crowds who were seeking admission. Institutions multiplied to meet the evergrowing demand. Government grants were given only to the institutions which complied with its rules which were designed to secure efficiency. The other institutions failed to secure competent teachers. This again stood in the way of Government grants. A large number of inefficient institutions with incompetent teachers was the natural result of a system which does not recognize education as a national obligation but only aids private effort by 'doles'.

Efforts were then made by the Government to confine higher education and secondary education leading to higher education to boys in affluent circumstances. This again was done not in the interests of sound education but for political reasons. Rules were made calculated to restrict the diffusion of education generally and among the poorer boys in particular. Conditions for recognition for 'grants'—stiff and various—were laid down and enforced and the non fulfilment of any one of these conditions was liable to be followed by serious consequences

Fees were raised to a degree which, considering the circumstances of the classes that resort to schools, were abnormal. When it was objected that the minimum fee would be a great hardship to poor students the answer was—such students had no business to receive that kind of education. Managers of private schools who remitted fees in whole or in part were penalised by reduced grants-in-aid. These rules had undoubtedly the effect of checking the great expansion of education that would have taken place. This is the real explanation of the very unsatisfactory character of the nature and progress of secondary education; and it will never be remedied till we are prepared either to give education to the boys ourselves or to make sufficient grants to the private schools to enable them to be staffed with competent teachers. We are at present not prepared to do either. English education, according to this policy, is to be confined to the well-to-do classes. They, it was believed, would give no trouble to Government. For this purpose the old system of education under which a pupil could prosecute his studies from the lowest to the highest class was altered.

For the masses, a new course of elementary or primary education solely in the vernaculars extending to about 7 years was devised. It was hoped that this would keep them in their present condition confined to their lowly ancestral pursuits. Schools confined to vernaculars were opened and encouraged to draw away boys from English studies. It was intended, and rules were framed to carry out that intention, that if possible those who commenced their education in these schools were not to be encouraged to proceed to what are called the secondary schools instituted for English education. The masses, the poorer classes of people, were thus deliberately denied all access to any real or English education. The result is that on account of their being prevented from following their English studies, they do not care to continue their studies in the vernacular schools and they cast off the little smattering of knowledge they acquire and lapse into illiteracy again. They are thus denied all means of material improvement, self-development and culture. I am accordingly glad to find that my Colleagues are willing to leave the question of primary education, including the question whether it should be English or Vernacular Education, to the Minister. But what has been our record as regards even primary education? In the earlier years of this century, Mr. Gokhale was pressing the claims of primary education upon the Government, and various statements on behalf of Government were made in the years 1906-07, which were taken to be promises of free education. So stood matters when the reformed councils met. Almost the first question to which the English educated community turned their attention was elementary education. Mr. Gokhale introduced his Education Bill which was opposed by Government and therefore rejected by the Council. But at the end of the year at the Durbar it was announced that the Government have resolved "to acknowledge the predominant claims of educational advancement on the resources of the Empire." As a fact, that acknowledgment has not been translated into action. In almost all the local councils attempts are being made to introduce private bills for optional compulsory education. These bills are allowed to be introduced only on condition that no finan-

cial responsibility is thereby imposed on Government Local resources are inadequate and such education as it imparted will not be efficient Without Government financial assistance the scheme will not succeed or even cannot be put into operation

With reference to commercial and industrial education we do not give the higher education required to foster manufacturing industries to start great commercial concerns of any kind or produce captains of industry or commerce but we have industrial schools to train intelligent artisans or foreman or to further or develop the local cottage industries which are capable of expansion by the application of improved methods or improvements Similarly it was intended to start or encourage schools with commercial courses whose chief aim was to supply practical training for those who were to enter business houses in a subordinate capacity and hopes were held out that every effort would be made to find employment to pupils who received that training The necessity of engineering and medical colleges is always recognised but it is assumed that the efforts that should be made should not be in the direction of starting more colleges but in the directions I have indicated

Now there is no doubt that in all this the Government were actuated by the highest motives but at the same time there is no use ignoring the fact that the Indians were satisfied that all these changes were made with a sinister purpose It is the universal belief and there is little doubt that facts unfortunately tend to support it that Primary English Education for the masses and higher education for the middle classes are discouraged for political reasons Higher professional Industrial and technical education is discouraged to favour English industries and recruitment in England of English officials

If therefore we should have more Indians in scientific and technical professions and more engineering and industrial colleges experience shows that the present system must be abandoned and that an Indian Minister alone would supply the necessary institutions Otherwise we are likely to follow the same course as hitherto we will tell those few of our young men who have made themselves fit for these professions that such education as they have received is not satisfactory at the same time discourage them from going to foreign countries to receive education and fail to provide sufficient facilities for education in India itself The errors of the past are admitted even by those who will not allow education to be a transferred subject and a promise is made to repair them The subject is far too important and vital to the interests of the nation for any further experiments to be made or for the matter to be left in the hands of those was stand thus self convicted and whose promises have not been faithfully kept The reason often assigned for mistakes in the past has been want of funds, and conservatism of the rural classes both of which I entirely deny

For the nature of our mistakes in the past, we have only to look to the Report of the Calcutta University Commission. They rightly point out that the teachers in the high schools are under-educated and underpaid. The fact is that the Government are not utilising the funds at their disposal to mitigate the evils of the system, which is described by the Bengal District Administration Committee and the Rowlatt Committee, for which we are responsible. The Commission point out that secondary education is unduly dominated by the examination system, which must be the case as long as the educational services are manned by officials who cannot, on account of their want of knowledge of the vernaculars, be responsible for the teaching: but who, at the same time, supervise the whole system. They further point out that the stage of admission to the University should be that of the present Intermediate instead of the Entrance examination, as the boys who have passed the latter examination are not fit for University education or their want of knowledge in English language. This is the result of the system to which I have adverted which has discouraged English teaching in the earlier classes even as a language, against strong Indian protest. They also refer to the fact that the Entrance Examination of the University is not a preparation for the medical, engineering professions, or for careers in agriculture, commerce or industry. This, again, is due to the policy which I have referred to, which would only give secondary education fit for clerks and managers of offices and not for higher education in those subjects for which the Department (that is, the Government), is responsible. The Indian opinion, therefore, is not responsible at all for this result. The Commission accordingly propose, to remedy these defects, the appointment of a Board in which the majority should consist of non-official members—a recognition of the superiority of non-official guidance. They would make the Director an expert adviser "to the Member or Minister in charge of Education" which disposes of the arguments sometimes advanced that, according to the views they entertain, secondary education should be a reserved subject.

As to University education, there can be no more scathing condemnation of the system than that to be found in the Commission Report. It has to be remembered that the University itself is an officialised body under Government control. They say that the Government and administration of the University is unsatisfactory and ineffective as an instrument for encouragement of learning. They point out that even such a University is under the unduly rigid control of the Government. "There is far too much detailed Government intervention." They are perfectly right, and it is impossible under such a system that any University can carry on its work efficiently. It is just for that reason that Indians are anxious to get rid of the bureaucratic control and place the University and secondary education under the control of a Minister. It is not difficult to come to the conclusion that the same state of things will otherwise continue. I am therefore of opinion that the Committee's recommendations should be accepted and Education as a whole should be transferred. Most of the important Native States have gone ahead.

Non-Brahmin Movement.

24. The nature of the objections taken to the transfer of subjects is proof of the necessity of responsible government. Among the objections advanced to it, there is one which finds a place in this report which for reasons that will appear later I feel bound to notice. The representative of the Madras Government (and it is said the Madras Government accept his view) has taken objection to the division of subjects on the ground that without adequate protection being provided for by communal representation, the non-Brahmins will be oppressed by Brahmins. I support non-Brahmin communal representation but I demur entirely to the proposition that it should be regarded as an essential preliminary to any responsible government for the reason given. As we are likely to hear more of this contention I propose to state my view of the situation.

25. For the consideration of this question, it is essential to recognise two divisions among non-Brahmins, the high caste Hindus and the lower classes. In the earlier years of the Congress, the non-Brahmin leaders were invited by the officials to stand aloof from it, and, if possible, to denounce it as inimical to their interests. They resolved to disregard the advice. Their main reasons were these. They found that by the British conquest it was the Mahomedans and the non-Brahmin higher castes who had suffered most. The Rajahs and the zemindars who were deprived of their properties by the British Government generally belonged to those classes. By far the majority of them were either deprived of their properties or allowed to retain whole or portion of them on conditions which were very onerous. The revenue payable was very heavy with reference to the properties which they held at the time of British conquest. Their rights were being encroached upon. The ryotwari system before 1857 was iniquitous and destructive of private property. Subsequently, though not quite so bad, it was felt to be oppressive. The merchants and the artisan classes, the labouring classes, were involved in the misfortune of these superior classes. I have already pointed out that the *raison d'etre* of the Congress was the intense poverty of the people and the measures which they put forward to relieve such poverty, concerned the non-Brahmins more than Brahmins, the non-Brahmin higher castes, therefore stood to gain from its success more than any others. The other questions which the Congress took up, like the separation of judicial and executive functions also concerned them more. Under the conditions that then existed, and, to a great extent, even now exist, the Brahmins had far greater chances of success in the services and elsewhere. They had the qualities which were required by a foreign ruling race who wanted good subordinates. The Mahomedan and the Hindu zemindars and the Hindu martial classes were looked upon with suspicion on account of such of their qualities which are only required for administration and government, and not required in those whose main function was to obey and produce wealth which should be at the disposal of their masters. The non-Brahmin leaders, therefore felt that they had a better chance of success in the new condition of things which they hoped would be brought about by the Congress agitation when the qualities which they, in their own opinion,

possessed in a higher degree than the Brahmins would have a better scope. They found also that, though the old class of Brahmins had faults which are now inspected to them by leaders of the non-Brahmin movement, a distinct improvement was visible in the younger generation that was growing up and they hoped that common efforts, common aspirations, and the common good of the country will introduce a change in the Brahmin class. These hopes have not been disappointed. It is true that there are still Brahmin leaders under the domination of feelings and sentiments which are not conducive to harmony or progress, but, on the other hand, there is no doubt that, generally speaking, the Congress movement has brought about a greater rapprochement between the various classes. Mrs. Besant, in particular, has brought over the whole of her Brahmin party to discard the Brahmin restrictions which stood in the way of the hearty co-operation with he non-Brahmins. Besides the reasons above referred to, the non-Brahmins were startled at the official attitude. Many of the officials while insisting upon the existence of this class division as a bar to political progress, not only did not themselves take any active steps to remove them but by their passive resistance foiled every attempt of the reform party to remove such restrictions. The latter were sneered at as Anglicised Indians who had lost touch with the ordinary people and therefore untrustworthy in these matters or denounced as impracticable visionaries. Several officials went even so far as to say not only privately but in public that this ancient caste system was necessary to the stability of the society as it accustoms the people to order and obedience to authority and it is therefore in the interest of the Government to support that system. The non-Brahmin leaders felt therefore that very little could be hoped from officials to remove this caste restriction. These were the reasons, so far as I remember, that determined the attitude of the non-Brahmin leaders then and I do not think those reasons have lost their force now.

I have already referred to a number of reforms that are long overdue and they are far more beneficial to the non-Brahmins than to the Brahmins. If the proposed reforms are carried out in their proper spirit and proper rules are framed, I have not the slightest doubt that the non-Brahmin higher Hindu castes will be gainers. I fail to see how they will be worse off.

26. In the case of the depressed classes the conditions are different. It is absurd to say that their position, so far as their material prospects are concerned, has improved under the British Government. It has steadily gone from bad to worse. To mention only a few instances, under the old customs they were entitled to free house sites, materials free from the jungles for building their cottages, free pasturage and a fixed share of the produce of the land which they cultivated for their wages which ensured a living wage. All these they have lost under the ryotari system. With the ruin of the Indian industries also the non-agricultural labourers lost their fixed wages and they were involved in the ruin of their masters. The agricultural labourers suffered equally from the Government and the zemindars and the big ryots. The proposed reforms will not directly benefit them to the same extent as the superior non-Brahmin castes, but they are bound to share in the benefits which will accrue to the whole country if the reforms are

carried out in the directions indicated and the poverty problem, in particular, is properly dealt with Amongst them it is very doubtful whether representatives can be found in sufficient numbers to protect their interests against the higher castes, Brahmins and non-Brahmins who now lead the agitation in Madras and the planters and capitalists, but I think it is possible to devise rules which will enable them materially to influence elections, or, to create electorates, to send their representatives to the Council In any event, I am fully satisfied that this class cannot possibly be worse off under the proposed reforms, while it is probable that their position can be improved, and it is certain that, if properly safeguarded, it will be improved

27 I cannot agree with my Colleagues in their proposals in paragraph 23 about inspection and advice According to them, these officers are to inspect the operations of the Reserved and Transferred Departments, offer criticisms for the attention of the Governor to be called to the defects disclosed so that he might use his influence and authority to secure their removal The authors of the Reforms Report have pointed out (see paragraph 118) that such official inspirations have increased the disposition to interfere in provincial details, they further point out that a substitute for them, in future should be found in the stimulus afforded by public criticism Though the necessity of publicity and public criticism is recognised by my Colleagues in the paragraph above referred to I have little doubt that the tendency again will be towards interference with the Transferred Departments and also with the Reserved Departments It is the Government of India, as is recognised in the Reforms Report that have stood in the way of reforms which the Provincial Governments had been willing to carry out I am, *for these reasons, unable to support the recommendations of my Colleagues*

Considering the nature of these recommendations by my Colleagues, it appears to me that the further consideration of these questions should *not be put off till the appointment of the Statutory Commission*, and that the *proposals* in the Reforms Report *empowering the Viceroy* to transfer subjects if he thinks fit to do so, should be maintained

C SANKARAN NAIR

Simla, 16th April 1919

List of enclosures

I Report of the Committee on the division of subjects, dated February 26, 1919

II Draft of the instrument of instructions to the Governor

III Selected opinions on the question of the transfer of education

IV Opinion of the Railway Board on the question of light and feeder railways

APPENDIX II.

Draft Instrument of Instructions

The Governor is responsible to Parliament for doing his utmost, consistently with the general purpose of the Government of India Act, 19   , to maintain the standards of good administration and to further all changes tending to make India fitted for self-government. He is required to encourage religious toleration, co-operation and good-will among all creeds and classes, to protect the interests of all minorities, to maintain the standards of conduct of the public service and the probity of public finance, and to promote all measures making for the moral, social and industrial welfare of the people and tending to fit all classes of the population without distinction to take their due share in the public life and government of the country

In particular and without prejudice to the generality of the foregoing —

I The Governor is responsible for maintaining the safety and tranquillity of his province and for using his influence to compose religious and racial animosities, and to prevent religious and racial conflicts

II The Governor has a general responsibility for seeing that the administration of the transferred subjects by ministers is properly conducted He will assist his ministers by all the means in his power with information and advice He will restrict the exercise of the power to act in opposition to his ministers' advice, which is vested in him under section   of the Government of India Act, 19   to cases in which he considers that consequences of acquiescence would be serious, bearing specially in mind his responsibility for the reserved subjects and the responsibilities laid upon him in clauses I, IV and VII to XII of these instructions

III The Governor is required to advise his ministers in regard to their relations with the provincial legislative council, to support them generally in difficulties so far as possible, and in the event of an adverse vote in the legislative council to require the resignation of a minister only when it seems to him that the minister has lost the confidence of the council

IV The Governor is responsible for the due compliance with any orders affecting the administration of transferred subjects which may be issued by the Secretary of State or the Government of India

V The Governor is responsible for bringing to the notice of the minister concerned any observations on the administration of a transferred subject which may be communicated to him by the Government of India

VI. In the case of any provincial Bill which appears to the Governor likely to affect any matter hereby specially committed to his charge, or any all-India subject, or any general principles laid down by the Secretary of State or the Government of India for the administration of a reserved subject, the Governor shall, before assenting to such Bill, consider whether he should reserve it for the consideration of the Governor General.

VII. The Governor is required to see that no monopoly or special privilege which is inconsistent with the public interest is granted to any private undertaking and that no unfair discrimination in matters affecting commercial or industrial interests is permitted.

VIII. The Governor is responsible for the safeguarding of the legitimate interests of the European and Anglo-Indian community.

IX. The Governor is responsible for the protection of all members of the public services in the legitimate exercise of their functions, and in the enjoyment of all recognised rights and privileges.

X. The Governor is required to secure that in all extensions of educational facilities adequate provision is made for the special needs of the Muslim and any other minority community.

XI. The Governor is required to secure that the interests of existing educational institutions maintained or controlled by religious bodies are duly protected in the event of any changes educational policy affecting them adversely.

XII. The Governor is required to secure that due provision is made for the advancement and social protection of depressed and backward classes and aboriginal tribes.

APPENDIX III.

(*Vide para. 10th* of despatch.)

Extract A.

" We have in India already many illustrations of the way in which popular control works in educational institutions. I do not hesitate to say that the only institutions that I know in India which are efficient are those which are under Government management, which are for that reasons relatively free from the illegitimate external pressure which all other institutions have to undergo. In particular, it is significant that teachers prefer, if possible, to be employed in Government institutions, even at lower salaries. The main reason for this preference is that they have security and some protection against the kind of pressure I have described.

" It is in the maintenance of discipline, and the relations between teachers and their pupils both in Colleges and in high schools that this kind of illegitimate influence is most unhappily

displayed In every dispute between teachers and students, what is known as 'public opinion,' and in particular all the influence of the politicians, is invariably arrayed on the side of the students, who are always assumed to be in the right, the teachers who try to maintain order, peace and discipline always find themselves even in private colleges, abused and condemned as Government agents. If education is placed under popular control, no teacher will dare *to maintain discipline, or to oppose the wishes of his students*

" It is true that the teaching profession to day, because of its poor pay and low status, does not attract the best men But under a system wherein they will be exposed to perpetual criticism, and brought under the control of lawyer-politicians always subject to public pressure, the calling will sink into yet greater disesteem The lawyer's jurisdiction over the teacher will lead to unhappy results because the kind of material and records upon which the teacher has to base his disciplinary decisions are wholly different from those to which the lawyer is accustomed and the decision of a non educationist lawyer will nearly always go against the teacher

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" The efficiency of primary education where the aim is only to give a knowledge of the rudiments can be easily ascertained It is very easy to see whether the boys can or cannot read and write At the higher stages it is harder to form a sound judgment, and, therefore, public opinion is tempted to judge only by the number of " *passed* " *in examinations* and to think that all is well if *most* of the candidates pass, nor will they realise deterioration until it is too late to remedy the defects Nothing could be more dangerous to the development of a sound educational system than that this notion should be established and enforced upon the supreme authority, as it would inevitably be if that authority were a popularly elected ministry "

Extract B

" The success of the reform scheme, and indeed the progress of the country are dependent to an extent, it would be difficult

VI. In the case of any provincial Bill which appears to the Governor likely to affect any matter hereby specially committed to his charge, or any all-India subject, or any general principles laid down by the Secretary of State or the Government of India for the administration of a reserved subject, the Governor shall, before assenting to such Bill, consider whether he should reserve it for the consideration of the Governor General.

VII. The Governor is required to see that no monopoly or special privilege which is inconsistent with the public interest is granted to any private undertaking and that no unfair discrimination in matters affecting commercial or industrial interests is permitted.

VIII. The Governor is responsible for the safeguarding of the legitimate interests of the European and Anglo-Indian community.

IX. The Governor is responsible for the protection of all members of the public services in the legitimate exercise of their functions, and in the enjoyment of all recognised rights and privileges.

X. The Governor is required to secure that in all extensions of educational facilities adequate provision is made for the special needs of the Muslim and any other minority community.

XI. The Governor is required to secure that the interests of existing educational institutions maintained or controlled by religious bodies are duly protected in the event of any changes educational policy affecting them adversely.

XII. The Governor is required to secure that due provision is made for the advancement and social protection of depressed and backward classes and aboriginal tribes.

APPENDIX III.

(*Vide para. 10th* of despatch.)

Extract A.

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Extract B

"The success of the reform scheme, and indeed the progress of the country, are dependent to an extent it would be difficult

to overestimate, on the policy pursued in regard to secondary and university education. It is from the secondary schools and the universities that the men will be drawn who will fill the legislature, the public services, and the local bodies. At present, in these provinces, the standard is lamentably low; politically and industrially its improvements is probably the most vital problem with which the administration is faced. Even in England, the home of individualism, the importance of a sound system of national education is at last realized; and it is certain that in future no effort will be spared to make up the beway of the past. In this country, unfortunately, the influence of an ill-instructed public opinion is all the other way. In the legislature, in the press and public meetings, demands are continually being made for changes which admittedly would involve the lowering of the existing standard such as this is. In part those demands are inspired by distrust of the motives of the Government, which is suspected of desiring to restrict educational facilities; in part by a not unnatural sympathy with struggling parents (in the present dearth of industrial and commercial openings the university is almost the only avenue open to boys on leaving the high schools), and in part by sheer ignorance. The fact, however, remains that such is the popular attitude on the subject of higher education; and there are at present no indications that it is likely to alter for the better in the near future. If past experience is any guide, the course of educational policy under popular control is likely to be steadily downwards for a period the length of which cannot be foreseen."

Extract C.

"Primary education is a complete educational unit. It has been developed along sound lines in the part of India that I know best, and, aside from the inadequacy of its diffusion, it is most successful branch of the whole educational system. By all means let this department be entrusted to the provincial council. In the extension of primary education over the entire population Indian politicians will have a task sufficiently large for their utmost energies, and a task that will be congenial too; for the spread of primary education is a cherished aim among many of the ablest of them. But let us keep secondary education, the foundation of the whole system of English education, the key to India's intellectual advance along Western lines, meanwhile, under the authority which now controls it. In this view I have the support of all the mean experienced in Indian education with whom I have discussed this question since your report appeared. These include on who stands foremost amongst Indian educators who gives his most emphatic support to the view which I have advocated, *viz.*, that secondary education must, at all costs, be excluded at this early stage of the new constitutional experiment from the list of the transferred subjects.............................. With all earnestness therefore I would urge that even in a tentative list secondary education be not included among the transferred subjects."

para. 15 (2) of the functions ... le list all-India subjects in part 3 of that report

(1) The Railway Board understand from the proposals of the *subjects committee* that in the event of a local authority or other authorized body desiring to introduce a Bill for the construction of *a light or* feeder railway, it will in the first case merely be necessary for the promoters to give the Railway Board notice of the intention to introduce such a bill and that it will thereafter rest with the Railway Board to make representations before a select committee to be nominated by the provincial council concerned, should they desire to oppose the Bill, or to secure special safeguards to existing interests

(2) The conditions governing railway questions in India differ very widely from those prevailing in England and are complicated in this country by the existence of contracts between each owning or working administration and the Secretary of State for India *The Railway Board are of opinion that a committee of a provincial* council would not be a proper body to adjudicate upon questions arising out of *these contracts, nor would they be in a position to* judge as to whether the proposals were in accordance with the Government of India's railway policy Even if this were not the case, the proposed procedure offers no advantage over that now existing Under it the Railway Board themselves carry out the functions of the proposed committee and are in a much better position to do so from their special knowledge of the circumstances attending each case.

(3) Apparently the chief objection to the present system is the delay which occurs between the submission of an application to construct a light or branch railway, and final sanction to commence construction Some delay is unavoidable, as not only have local conditions to be closely examined and rival interests given consideration to, but terms for the construction and working of the feeder line have also to be arranged with promoters and the working agency proposed The delay will not be lessened by reversing the currents in the direction proposed by the functions committee It is on the contrary more likely to be increased owing to the necessity of submitting the scheme, after approval by the local council, to the Government of India who may find themselves unable to accept the proposal as submitted It would create an awkward position, if a scheme which the Railway Board had opposed but which thereafter received the approval of a local Government, were to be rejected by the Governor-General on the advice of the Railway Board

(4) The present system is roughly as follows

In the Madras Presidency *most of* the promoters are district boards and make their applications to the local *Government* The local Government (*i*) institutes enquiries into the necessity for the line, the ability of the district board or other promoter to finance its construction, the particular alignment it should follow in order

best to serve local interests, and (*ii*) consult the Agents of existing railways (if any) whose interests might be affected. In these latter cases reference has usually to be made by the local Agent of a railway to his Board of Directors in England. On completion of the preliminary enquiries, the local Government submits the scheme to the Railway Board with a request for sanction to the necessary surveys. The Railway Board, if satisfied that the scheme is a promising one and does not conflict with their general railway policy, take steps to have the alignment surveyed and careful estimates of the probable cost, amount of traffic, etc., prepared. If these prove favourable, the local Government proceeds to arrange the final terms for the construction, and working of the branch line with the administration of the parent line concerned. In certain cases, the local Government finds it necessary to call in the assistance of the Railway Board in the settlement of terms with the main line administration; but in the majority of cases when the scheme proposed does not adversely affect the interests of the main line, there has, in the past, been no difficulty in arranging reasonable terms.

When these terms have been settled, a formal application, embodying the terms settled, for the grant of a concession, is submitted by the local Government to the Railway Board, who, if satisfied with the proposals in regard to the grant of a guarantee or rebate, etc., and with the arrangements proposed for financing construction, approve the scheme and accord sanction to construction.

In provinces other than Madras, promoters make their applications either to the local Governments or to the Railway Board direct, but in any case the Railway Board, before reaching the stage of sanctioning a survey, consult the local Governments as to the merits of the application, and simultaneously make a reference to main line administrations affected by the proposal. Subsequently to the sanctioning of a survey, the Board enter into negotiations with the working agency proposed in regard to terms for construction and working; on the settlement of which they grant a concession for the construction of the line.

(5) The scheme proposed by the functions committee would necessitate the same amount of enquiry and would not in any way secure additional regard to local demands. On the other hand, the functions committee fails to take into account the fact that it is the Railway Board who are responsible for the terms of the concession, whether of guarantee, period of tenure, or terms of foreclosure by the Government of India on the determination of the lease. Moreover, in some cases, in particular where a line short circuits existing systems, the proposal has generally to be referred for the sanction of the Secretary of State. There are also cases where railways belonging to native States are affected. The machinery proposed by the functions committee would be altogether unsuitable for dealing with these.

(6) Under existing circumstances the Railway Board feel themselves compelled to advise the rejection of the committee's proposals.

REVISED LISTS OF ALL-INDIA, PROVINCIAL AND TRANSFERRED SUBJECTS, AS PROPOSED BY THE GOVERNMENT OF INDIA.

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ALL INDIA SUBJECTS

Subjects	Remarks
1 All questions connected with His Majesty's naval, military and air forces in India, including the Royal Indian Marine, volunteers, cadets, and armed forces, other than military and armed police maintained by provincial Governments	
1A Ordnance, munitions, censorship, compulsory purchases, requisitioning, prize courts, registration of mechanical transport, etc , for naval and military purposes	
2 External relation, including naturalisation and aliens	
3 Relations with Native States	
3A Political charges	
3B Regulation of ceremonial, including titles and orders, precedence and darbars, and civil uniforms	
4 Any territory in British India other than a province mentioned in the schedule	The schedule will include the eight provinces to which the reform scheme applies
4A The Andaman and Nicobar Islands	
4B Territorial changes other than intra-provincial, and declaration of laws	
5 Excluded areas *	These are the backward areas referred to in paragraph 199 of the Joint Report which it is suggested should be administered by the Governor under the control of the Government of India

* This entry is included provisionally and subject to any recommendations for the treatment of those areas which may be made in a subsequent despatch

Subjects.	Remarks.
6. Communications—to the extent described under the following heads:— (*a*) Railways and tramways, except (*i*) tramways within municipal areas and (*ii*) light and feeder railways and tramways. (*b*) Such roads, bridges, ferries, tunnels, ropeways, causeways, and other means of communication as are declared by the Governor General in Council to be of military importance. (*c*) Aircraft, aircraft factories, aerodromes, and landing places. (*d*) Inland waterways to an extent to be declared by the Governor General in Council.	
7. Shipping and Navigation [including shipping and navigation on inland waterways in so far as declared by the Governor General in Council under 6 (*d*).]	It is suggested that wide powers should be delegated to local Governments to enable them to regulate local shipping traffic, *e.g.*, coasting vessels plying between ports in the same province, especially as regards accommodation provided for passengers.
8. Lightships, beacons, buoys and lighthouses (including their approaches).	
9. Port quarantine and marine hospitals.	
10. Ports declared to be major ports by the Governor General in Council.	
11. Posts, telegraphs and telephones and wireless installations.	
12. Sources of imperial revenue, including customs, cotton excise duties, taxes on income, salt, stamps (non-judicial).	

Subjects	Remarks
13 Currency and coinage	
14 Public debt of India	
15 Savings banks	
16 Department of the Comptroller and Auditor-General	
17 Civil Law, including laws regarding status, property, civil rights and liabilities and civil procedure	
18 Commerce, including banking and insurance	
19 Trading *companies and* other associations	
19A Regulation of food supply, fodder, fuel and trade generally between provinces in times of scarcity	
20 Control of production, supply and distribution of any articles in respect of which control by a central authority is declared by the Governor General in Council essential in the public interests	
20A Control of cultivation and manufacture of opium and sales of opium for export	
20B Stores and Stationery	Subject to the introduction as soon as possible of such measures of decentralisation as are found by the Governor General in Council to be advisable
21 Control of petroleum and explosives	The law regarding petroleum and explosives is at present under the direct control of the Government of India and uniformity of law and administration is desirable
22 *Geological survey*	
22A The development of industries including industrial research	*Vide* 24, Provincial The fact that the development of any industry or any industrial research is being taken up by the Government of India will not prevent local Governments from also taking it up

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Subjects.	Remarks.
	of the Government of India. As a large portion of the expenditure is on behalf of the army, the subject must be an All-India one.
31A. Higher language examinations to an extent to be declared by the Governor General in Council.	
32. Survey of India.	
33. Archæology	Provisionally included: *vide para. 39 of the despatch.*
34. *Zoological survey.*	
35. Meteorology.	
36. Census and Statistics.	
37. All-India Services.	
37A. Government servants' conduct rules.	
38. *Legislation in regard to any provincial subject, in so far as such subject is stated in the Provincial List to be subject to Indian legislation, and any powers relating to such subject reserved by legislation to the Governor-General in Council.*	
39. *All matters expressly excepted from inclusion in the list of provincial subjects.*	
40. All other matters not included in the list of provincial subjects.	

PROVINCIAL SUBJECTS.

Subjects.	Remarks.
1. Local self-government, that is to say matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health and other local authorities established in the province for purposes of local self-government, exclusive of matters arising under the Cantonments Acts.	
2. Medical administration, including hospitals, dispensaries and asylums.	[illegible] tus [illegible] of [illegible] ct. The question of medical registration falls under head 42.

Subjects.	Remarks.
3. Public health and sanitation and vital statistics.	
3A. Pilgrimages within British India.	
4. Education (excluding— (1) the Benares Hindu University and such other new universities as may be declared to be all-Indian by the Governor General in Council. (2) Chiefs' colleges and any educational institutions maintained by the Government of India); subject to Indian legislation— (*a*) controlling the establishment, and regulating the constitutions and functions of new universities; and (*b*) defining the jurisdiction of any university outside its own province; and, in the case of Bengal, up till the time when the recommendations of the first statutory commission are carried into effect, subject to Indian legislation with regard to the Calcutta University and the control and organisation of secondary education.*	
5. Public Works included under the following heads:— (*a*) Provincial buildings: (*b*) Roads, bridges, ferries, tunnels, ropeways, causeways and other means of communica-	

* *Vide* paragraph 58 of fourth despatch. If higher education is reserved, there will be less need for this provision.

Subjects	Remarks
tion other than such as are declared by the Governor General in Council to be of military importance	
(c) Tramways within municipal areas	
(d) Light and feeder railways and tramways	
6 Control of water supplies in rivers, streams and lakes, irrigation and canals, drainage and embankments, water storage and water power, subject to such rules in regard to technical scrutiny and financial sanction as may be prescribed	
7 Land Revenue administration, as described under the following heads —	*Vide* para 61 of the fourth despatch
(a) Assessment and collection of land revenue	
(b) Maintenance of land records, survey for revenue purposes, records of rights	
(c) Laws regarding land tenures, relations of landlords and tenants, collection of rent	
(d) Court of Wards, encumbered and attached estates	
(e) Land improvement and agricultural loans	
(f) Colonization and disposal of Crown lands and alienation of land revenue	
7A Management of State properties	
8 Famine relief	
9 Agriculture, including research institutes experimental and demonstration farms intro	

Subjects.	Remarks.
duction of improved methods, provision for agricultural education, protection against destructive insects and pests and prevention of plant diseases.	
10. Civil Veterinary Department, including provision for veterinary training, improvement of stock, and prevention of animal diseases.	
11. Fisheries.	
12. Co-operative Societies.	
13. Forests, including preservation of game therein.	
14. Land acquisition, subject to Indian legislation as regards acquisition of land for public purposes.	
15. Excise, that is to say the control of production, manufacture, possession, transport, purchase and sale of alcoholic liquor and intoxicating drugs, and the levying of excise duties and license fees on or in relation to such articles, but excluding, in the case of opium, control of cultivation, manufacture and sale for export.	
16. Administration of justice, including the constitution, maintenance and organization of courts of justice in the province, both of civil and criminal jurisdiction, other than a High Court, a Chief Court, or the Court of a Judicial Commissioner, but subject to Indain legislation as regard courts of criminal jurisdiction.	
17. Provincial law reports.	
18. Administrator-General and Official Trustee, subject to Indian legislation.	
19. Judicial stamps, subject to Indian legislation.	
20. Registration of deeds and document.	
21. Registration of births, deaths and marriages.	Existing Indian legislation provides for the following classes,

Subjects	Remarks
	viz, members of every race, sect or tribe to which the Indian Succession Act, 1865, applies, and all persons professing the Christian religion
22 Religious and charitable endowments	This entry is provisional on the contemplated Indian Act on this subject being secured from alteration by rules under the proposed section 79 (3) (i) of the Government of India Act
23 Development of mineral resources which are Government property, subject to rules made or sanctioned by the Secretary of State, but not including the regulation of mines	
24 Development of industries, including industrial research	*Vide* 22A All India
25 Industrial matters included under the following heads — (a) Factories (b) Settlement of labour disputes (c) Electricity (d) Boilers (e) Gas (f) Smoke nuisances, and (g) Welfare of labour, including provident funds, industrial insurance (general, health and accident) and housing, subjects as to (a), (b), (c) and (d) to Indian legislation	Inspectors of Factories, Electricity and Boilers are provincial officers under the control of the local Governments, but we consider that there are strong grounds for maintaining uniformity in regard to the four matters which are made subject to Indian legislation As regards the other subjects, especially those included under "Welfare of labour," it is desirable to give the provinces freedom of initiative
26 Adulteration of food stuffs and other articles	
27 Weights and measures	
28 Ports except such ports as may be declared by the Governor General in Council to be major ports	
29 Inland waterways, including shipping and navigation thereon so far as not declared by the Governor General in Council to be under control of the Govern	

ment of India, but subject as regards inland steam vessels to Indian legislation.

30. Police, other than the jurisdiction and cost of railway police.

31. Miscellaneous matters:—

(a) regulation of betting and gambling:
(b) prevention of cruelty to animals:
(c) protection of wild birds and animals:
(d) control of poisons, subject to Indian legislation:
(e) control of motor vehicles, subject to Indian legislation as regards licenses valid throughout British India; and
(f) control of dramatic performances, and cinematographs, subject in the case of the latter to Indian legislation in regard to certification.

32. Control of newspapers, books and printing presses, subject to Indian legislation.

33. Coroners.

34. Criminal tribes, subject to Indian legislation.

35. European vagrancy, subject to Indian legislation.

36. Prisons, prisoners and reformatories, subject to Indian legislation.

37. Pounds and cattle-trespass.

38. Treasure-trove.

39. Museums (except the Indian Museum, Imperial War Museum and the Victoria Memorial, Calcutta) and zoological gardens.

39A. Provincial records and libraries.

Subjects.	Remarks.
39B. European cemeteries and historical monuments and memorials.	
40. Government Press.	
41. Franchise and elections for Indian and provincial legislatures.	*Vide* para. 76 of fourth despatch, and para. 2 of fifth despatch.
42. Regulation of medical and other professional qualifications and standards, subject to Indian legislation, and provision for medical education.	Under this head will fall the administration of the existing provincial Medical Registration Acts. Power is reserved to the Indian legislature in order to secure uniformity and maintain the standards of professional qualifications.
43. Control of the public services, other than the all-India services, serving within the province, subject to Indian legislation.	
44. Sources of provincial taxation not included under previous heads, whether (*a*) taxes included in the schedule of additional provincial taxes or (*b*) taxes outside this schedule in the case of which the prior sanction of the Governor General in Council has been obtained to the necessary legislation.	
45. Borrowing of money on the sole credit of the province subject to such rules as are made by the Secretary of State in Council.	
46. Any matter which, though falling within an all-India subject, is declared by the Governor General in Council to be of a merely local or private nature within the province.	

List of Provincial subjects for transfer.

Serial No.	Number in provincial list.	Subjects.	Provinces in which transferred.	REMARKS.
1	1	Local self-government, that is to say, matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health and other local authorities established in the province for purposes of local self-government, exclusive of matters arising under the Cantonments Act.	In all provinces .	The question of control if any, to be exercised over policemen or watchmen by local authorities should be left to be determined by provincial legislation relating to local self-government. Pounds, where they are managed by local authorities, will come under local self-government.
2	2	Medical administration, including hospitals, dispensaries and asylums.	In all provinces .	It will be noted that it is proposed to reserve "Regulations of medical and other professional qualifications and standards," and to make this matter subject to Indian legislation (*vide* Provincial List item 42). The administration of the Medical Registration Acts will thus be reserved, and the power of securing uniformity of standards will remain with the Indian legislature.
3	3	Public health and sanitation and vital statistics.	In all provinces .	"Port quarantine and marine hospitals" is an all-India subject. The Sanitary Department will be responsible for the compilation of vital statistics, but at present in most provinces will have to rely on the services of other departments for their collection.
3-A.	3-A.	Pilgrimages within British India.	In all provinces	
4	4	Primary and middle vernacular education.	In all provinces .	It is suggested that the Governor shall be required to have special regard to certain interests in education (*vide* paragraph 67).
5	5	Public works included under the following heads :— (*a*) Provincial buildings connected with transferred departments : (*b*) Roads, bridges, ferries, tunnels, ropeways, causeways and other means of communication other than such as are declared by the Governor General in Council to be of military importance : (*c*) Tramways within municipal areas.	In all provinces except Assam.	
6	9	Agriculture, including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insects and pests and prevention of plant diseases.	In all provinces.	

Serial No	Number in provincial list	Subjects	Provinces in which transferred	REMARKS
7	10	Civil Veterinary Department, including provision for veterinary training improvement of stock and prevention of animal diseases	In all provinces	
8	11	Fisheries .	In all provinces except Assam.	In Assam the restrictive measures taken for the protection of fish have been unpopular, and the administration of fisheries is closely connected with the Land Revenue Department
9	12	Co-operative Societies .	In all provinces	
10	13	Forests, including preservation of game therein	In Bombay only	The existing powers of the Governor General in Council under the Forest Act will remain, and any provincial legislation affecting them will be subject to previous sanction
11	15	Excise, that is to say, the control of production, manufacture, possession, transport, purchase and sale of alcoholic liquor and intoxicating drugs, and the levying of excise duties and license fees on or in relation to such articles, but excluding, in the case of opium, control of cultivation, manufacture and sale for export.	In all provinces except Assam	With reference to the proposed restriction of the purposes for which the Government of India will exercise their power to intervene in transferred subjects (*vide* para 4 of the despatch) the following points affecting Excise require special mention — (1) The power of the Government of India to safeguard the administration of customs revenue will involve power to control the incidence of excise revenue (i) on any liquor which is likely to compete directly with imported liquor, and (ii) on any article imported into British India which is liable on importation to the payment of customs duty (2) With regard to provincial action restricting the introduction into a province of excisable articles the position will be as follows — The Government of India will be entitled to intervene, in the case of excisable articles imported from outside British India, to protect their custom duties, and in the case of excisable articles in transit from or to other provinces territories and States of India for the purpose of protecting the interests of such other provinces, territories or States (3) The Government of India will be entitled to intervene in matters affecting the supply of excisable articles to His Majesty's forces

Serial No.	Number in provincial list.	Subjects.	Provinces in which transferred.	REMARKS.
				In Madras and Bombay, Excise, Salt and Customs are dealt with under a unified system of administration. Salt and Customs are all-India subjects, and the question of making arrangements for the separate administration of these subjects when the transfer of Excise takes effect will be considered by the Government of India.
12	20	Registration of deeds and documents.	In all provinces.	
13	21	Registration of births, deaths and marriages.	In all provinces .	*Vide* note to item **21**, provincial list.
14	22	Religious and charitable endowments.	In all provinces.	
15	26	Adulteration of food stuffs and other articles.	In all provinces	
16	27	Weights and measures . .	In all provinces.	
17	30	Museums (except the Indian Museum, the Imperial War Museum and the Victoria Memorial, Calcutta) and Zoological gardens.	In all provinces	

FIFTH DESPATCH ON INDIAN CONSTITUTIONAL REFORMS (Franchises).

No 4 of 1919

GOVERNMENT OF INDIA

HOME DEPARTMENT

REFORMS

To

The Right Honourable Edwin Montagu,
His Majesty's Secretary of State for India

Simla, April 23, 1919

Sir,

We have the honour to lay before you our views upon the proposals *for franchise and constituencies* and the composition of the reformed legislative bodies, made by Lord Southborough's committee in the report which we herewith enclose

2 Before we deal in detail with the report one preliminary question of some importance suggests itself As you will see, the work of the committee has not to any great extent been directed towards the establishment of principles In dealing with the various problems that came before them they have usually sought to arrive at agreement rather than to base their solution upon general reasonings It was no doubt the case that the exigencies of time alone made any other course difficult for them but in dealing with their proposals, we have to ask ourselves the question whether the results of such methods are intended to be in any degree permanent Their colleagues of the subjects committee have proposed to treat Indian and provincial franchises and elections as a provincial matter "subject to Indian legislation" The intention, however, as we understand it, is that these should be determined by rules made by the Governor General in Council with the sanction of the *Secretary of State in Council* under sections 63 E, (*a*) and (*c*), and 74 (2) and (4) of the Government of India Act as the draft Bill proposes to amend it The Bill moreover provides, and we think rightly, that such rules should not be subject to repeal or alteration by the Indian legislature Whatever be the machinery for alteration, however, we have to face the practical question of how long we intend the first electoral system set up in India to endure Is it to be open to reconstruction *from the outset at the wish of the provincial legislatures*, or is it to stand unchanged at least until the first statutory commission? There are reasons of some weight in either direction In the interests of the growth of responsibility it is not desirable to stereotype the representation of the different interests in fixed proportions, the longer the separate class and communal constituencies remain set in a rigid mould, the harder it may become to progress towards normal methods

of representation. On the other hand it is by no means desirable to invite incessant struggle over their revision. If the new provincial and Indian legislatures are to address themselves successfully to their heavier responsibilities, it is desirable that they should not be distracted by the acute contentions between religions and classes which questions of redistribution will arouse. In practice we believe it will not be possible to alter the constituencies at the instance of a majority in the legislatures. The disposition to insist on communal electorates, our own pledges to some minority interests, and the need for preventing a disturbance of the balance of power against the official government will make change difficult; indeed we anticipate that Indian political opinion will itself prefer to treat the proportions once allotted as fixed for a given term. We do not expect that the initial allotment will be abandoned until political life in India becomes more reconciled than it is at present to what we regard as a fundamental principle of responsible government, namely, the validity of a majority decision. Until that time comes the determination of the constituencies must rest with Government; and the heavy responsibility which is thus placed upon us compels us to submit to a closer examination than might otherwise be necessary those of the committee's proposals which seem to us open to criticism.

3. With one exception we endorse the committee's recommendations regarding disqualifications (para. 7 of report). In the present conditions of India we agree with them that it is not practical to open the franchises to women. Our colleague Sir Sankaran Nair, however, accepts the view of Mr. Hogg, that the sex disqualification should be removed from the outset. We cannot, however, agree that subjects of Indian States should be entitled, either to vote for the legislatures which are partly to control the Government and to make the laws of British India, or, to anticipate a further proposal of the committee (para. 26), should be eligible for election to such bodies. Discussing the latter point in para. 26 of the report the committee observe that there are many such persons residing in British territory, with which place of residence their interests are identified. We note that sections 63, 74 and 76 of the Government of India Act, as amended in 1916, admit of the nomination to the legislatures of a subject or ruler of an Indian state. That innovation, as you will remember, was the outcome of doubts which had been raised as to the competence of ruling chiefs to be appointed to the legislative councils. There was no question of making such persons eligible for election. Indeed in their despatch no. 38 of October 16, 1913, our predecessors said definitely that they intended no such thing. Moreover the arrangement then under consideration related to what may now almost be described as a bygone age. The councils are no longer to be a collection of individual advisers of the Government, but are to be representative bodies. At the same time the Report on Indian constitutional reforms (para. 239) has taken the opportunity, as we think wisely, of emphasising the principle that the Indian states should abstain from interference in the internal affairs of British India. We need not now refer to previous discussion of the status of the subjects of Indian states. It may be expressed briefly by saying that while in relation to a foreign power they can claim the protection of the paramount power, in respect of the domestic affairs of British India, they

are aliens By this broad principle we should prefer to abide. No one is entitled to assist in making the laws of a country but citizens of that country, and if subjects of Indian states who are settled in British India desire either to vote or to stand for the provincial legislatures they should first, in our opinion, acquire the status of British Indian subjects

4 As regards the qualifications of the electors we agree that some *form of property rating* is the only possible basis for the franchise We have not found it possible in practice to introduce any educational modification of the qualifications based on wealth The committee have made no comparison of the property qualifications which they propose in the various provinces, nor have they explained the variations which here and there they admit between different parts of the same province We ourselves know no way of expressing the different qualifications of revenue, rent, cesses, rates and income-tax in any common term otherwise than by translating them all, even though the process involves some debatable factors, into the common denomination of income. Para 225 of the Report says "*We must in fact measure the number* of persons who can in the different parts of the country be reasonably entrusted with the duties of citizenship," and though we agree with the remark which follows in para 226 that no great value attaches to *a priori* considerations as to the amount of income which may be held to constitute a qualification, the fact remains that as the committee have given us no general account of the income of the proposed voters, whether rural or urban, we find it very difficult to form any picture of the standard elector whom they have in view In its absence we feel that we can only judge of their proposals broadly by the size of the resultant constituencies

5 One of the voting qualifications proposed by the committee generally is the payment of income-tax When they were considering the question, the limit of assessable income was Rs 1,000 a year as you are aware, it has recently been raised to Rs 2,000 It would be out of the question, we think, to institute a separate assessment of incomes for purely franchise purposes We have therefore considered whether the adoption of the new standard would seriously disturb the balance of power between the various classes of voters We do not think that *this result will follow*, because except in the Punjab, *the other* urban qualifications have been fixed so low that people in towns whose income is between Rs 1,000 and Rs 2,000 a year would probably have them, while in rural areas the number of persons affected by the change is probably not large But we should be glad to obtain the advice of local Governments upon the point

6 *One palpable difficulty that presents itself in connection with* the question of property qualifications is the relative poverty of the Muhammadans as a body The committee have dealt with this problem by keeping the franchises even between the communities in the same areas (para 10) The result is that the proportion of Muhammadan voters to the Muhammadan population is smaller than in the case of the Hindus, and the value of a Muhammadan vote is larger than that of a Hindu vote This no doubt involves discrimination, but gree

with the committee that such discrimination is less invidious and fairer than would result from differentiating the qualifications.

7. In explaining their chief departure from the principle of a wealth qualification (para. 9), the committee make no reference to the fact that our opinion upon the question of soldiers' voting was placed before them. Our view was that Indian officers and soldiers should not be given any special preference; they should get a vote if otherwise qualified like anyone else, but, in view of the inexpediency of introducing politics into the Indian army, they should not exercise the vote except while on leave or after retirement. The committee, taking a middle line between Sir Michael O'Dwyer's desire to enfranchise commissioned Indian officers as such and the proposal made by the Punjab non-official members to admit to the vote wound-pensioned soldiers as well, have proposed to treat certain kinds of military service as qualifying for the vote in all provinces. We recognize the force of the arguments in favour of according especial recognition to military service; but if they are to be admitted we can see no reason for stopping short of the sepoy. We think the better plan is to adhere strictly to the property qualification, except for what may be called the corporation electorates. In this view we would omit the qualification of title-holders which the committee would retain in certain landholding constituencies. We regard it as no longer required; and in its executive origin it is clearly open to the objections taken by a minority of the committee in para. 27 to another proposal.

8. In arriving at the size of the electorates shown in para. 11 of their report, the committee have attempted no uniformity of standards. Except in the case of Madras and Bombay, they have for the most part adopted the varying proposals of local Governments. We fully recognize the need for local variations, but we consider that such variations should bear some relation to established facts; and our difficulty is to correlate the size of the suggested electorates with the progressiveness of the provincial populations whether judged by wealth, education or political activity. The individual opinions of the local Governments, each looking to its own province, have been the deciding factor, tempered by the moderate adjustments made by the committee. Since the report was received, the Madras Government have informed us that their revised estimate of the electorate in that presidency is lower by 100,000 than the comparatively small total which the committee expected their proposals to yield. This new fact lends additional force to the recommendation which we are disposed to make. Looking to the proposals as a whole, our conclusions are that the franchises should be so varied as to result in a slight enlargement of the Punjab electorate and a considerable enlargement of the Madras electorate; that the large electorates proposed for Bengal and the United Provinces should be reduced by something like one-third; and that Assam should be reduced in somewhat similar measure. Our colleague Sir Sankaran Nair, however, would accept the committee's proposals as regards Bengal, Assam and the United Provinces. As to the Punjab, he agrees with Sahibzada Aftab Ahmed.

9 We are confirmed in our opinion by our examination of some of the individual constituencies suggested We note the committee's assurance in para 10 of the report that the proposed constituencies are not too big, but as a matter of practical business it does not convince us It must be remembered that we are wholly without experience of the difficulty of holding elections on rolls of many thousands over wide areas We feel great doubt whether it is within the capacity of the ordinary district staff to hold elections every three years upon a total roll of one hundred thousand electors, most of whom are illiterate and very many of insignificant income, and over and above this, to maintain the roll between elections, and to inquire into allegations of bribery, promises, intimidation, impersonation or the improper admission of votes, which are the grounds on which the validity of an election may be impugned Nor do we see much prospect of strengthening the district staff for the purpose Most of the non official assistance, which is ordinarily forthcoming in district work, would, at election time, be itself engaged in the political campaign In the interests of the reforms, we should be very reluctant to see the conduct of polling at the numerous out stations committed to the hands of subordinate officials who might be too open to improper influence The work at the outset must be mainly done by a responsible official staff, and until further experience has been gained it should be kept within bounds which they can manage We understand that in the provinces where the constituencies are largest they were so framed in the hope of preventing them from being readily captured by the professional politicians but whether there are good grounds or not for such anticipation, it seems to us that in attempting to hold elections with an inexperienced electorate and a strictly limited agency on so huge a scale there is great risk of discrediting the experiment at the outset by electoral scandals In most provinces the district rolls proposed are managable, but in Bengal and the United Provinces we desire, as we have said, to see some substantial reduction made We cannot seriously conceive it as a physical possibility, to take two of the committee's examples, that 122,000 voters could be polled in the district of Bakarganj, almost entirely devoid of roads and traversed in all directions by vast rivers, or that 96,000 voters could be polled in the Almora district, a tangle of great mountain ranges, among which all communication is slow and painful

10 The next point for consideration is the size and general composition of the councils The present maximum strength of the councils in the three presidencies, the United Provinces and Bihar and Orissa is fifty, and in the Punjab, the Central Provinces and Assam is thirty The Congress League scheme proposed a strength of one hundred and twenty five in the major and of from fifty to seventy in the minor provinces Even if the Punjab and Bihar and Orissa are to be regarded as major provinces, it would hardly be reasonable to give them councils of approximately the same size as the three presidencies and the United Provinces It is difficult to give their proper weight to the various factors which should be taken into account in determining the size of the councils, but we feel that the strengths proposed by the committee correspond closely with the estimate which we should ourselves be

Provinces.	Total nominated and elected.	NOMINATED: Total (nominated)	Officials (nominated and *ex-officio*)	Non-officials	Total (elected)	ELECTED — By special electorates: Total	University	Landholders	Commerce and Industry, including mining and planting	By communal electorates: Total	Rural: Muhammadans	Urban: Muhammadans	Europeans	Anglo Indians	Indian Christians	Sikhs	Total	By general electorates: Rural: Non Muhammadans	Urban: Non Muhammadans
1 Madras	118	25	19	6	93	14	1	7	6	18	11	2	1	1	3		61	52	9
Per cent *basis*	*100*	*21*	*16*	*5*	*78*	*11*	*8*	*6*	*5*	*15*	*9*	*2*	*8*	*8*	*3*		*42*	*44*	*8*
2 Bombay	110	24	18	6	87	12	1	3	8	20	22	5	2				46	35	11
Per cent basis	*100*	*21*	*16*	*5*	*78*	*10*	*9*	*3*	*7*	*26*	*19*	*4*	*1*				*41*	*31*	*10*
3 Bengal	125	25	20	5	100	22	2	5	15	37	28	6	2	1			41	30	11
Per cent basis	*100*	*20*	*16*	*4*	*80*	*17*	*1*	*4*	*12*	*29*	*22*	*4*	*1*	*8*			*32*	*24*	*8*
4 United Provinces	118	23	18	5	95	10	1	6	3	28	23	4	1				57	49	8
Per cent basis	*100*	*19*	*15*	*4*	*79*	*8*	*8*	*5*	*2*	*22*	*19*	*3*	1 *8*				*48*	*41*	*6*
5 Punjab	83	22	16	6	61	7	1	4	2	36	22	6				8	18	14	4
Per cent basis	*100*	*26*	*19*	*7*	*73*	*8*	*1*	*4*	*2*	*43*	*26*	*7*				*9*	*21*	*16*	*4*
6 Bihar and Orissa	98	25	16	9	73	9	1	5	3	18	14	3	1				46	40	6
Per cent basis	*100*	*25*	*16*	*9*	*74*	*9*	*1*	*5*	*3*	*18*	*14*	*3*	*1*				*16*	*40*	*6*
7 Central Provinces	70	17	12	5	53	6	1	3	2	7	6	1					40	31	9
Per cent basis	*100*	*24*	*17*	*7*	*75*	*8*	*1*	*4*	*3*	*10*	*8*	*1*					*57*	*44*	*13*
8 Assam	53	14	9	5	39	8		2	6	12	12						19	18	1
Per cent basis	*100*	*26*	*17*	*9*	*73*	*15*		*3*	*11*	*22*	*22*						*35*	*34*	*1*

These numbers exclude the two experts (or in Assam one), who may be added by the Governor when required

As regards the proportions of nominated and elected members you will notice that the provinces fall into two distinct groups. The presidencies and the United Provinces form the first. In their case it is proposed to include in the councils from 78 to 80 per cent. of elected members. The *remaining four provinces will have from 73 to 75* per cent. These proposals seem to us to accord sufficiently with the relative progressiveness of the provinces.

12. As the committee say, the number of official members must be decided mainly with reference to the requirements of the grand committee procedure. If the grand committee is constituted on the basis of the existing councils the proportion of officials will be slightly higher than those proposed in the scheme of the Report; and on a 40 per cent. basis the difficulty, which the committee apprehend, will become more acute. We are not in a position to make our final recommendations, but we think that this matter will require further consideration after consultation with local Governments.

13. We have analysed in the statement printed below the interests which in the committee's opinion should be represented by non-official nomination:—

Name of province	Depressed classes.	Anglo-Indians.	Indian Christians.	Labour.	Excluded tracts.	Military interests.	Industrial interests other than planting and mining.	Aborigines.	Domiciled Bengalis.	Others.	Total.	Percentage of total membership.
1	2	3	4	5	6	7	8	9	10	11	12	13
1. Madras	2	..	..	..	2	..	..	..	..	2	6	5
2. Bombay	1	1	1	1	..	..	..	..	..	2	6	5
3. Bengal	1	..	1	1	..	..	..	..	..	2	5	4
4. United Provinces	1	1	1	..	..	..	..	..	..	2	5	4
5. Punjab	..	2*	1	..	..	1	..	..	..	2	6	7
6. Bihar and Orissa	1	1	1	1	..	..	1	1	1	2	9	9
7. Central Provinces	1	1*	..	..	2	..	..	..	..	1	5	7
8. Assam	..	1*	1	1	1	..	..	..	..	1	5	9
TOTAL	7	7	6	4	5	1	1	1	1	14	47	..

* Europeans and Anglo-Indians.

We accept these proposals generally. But there is one community whose case appears to us to require more consideration than the committee gave it. The Report on Indian constitutional reforms clearly recognises the problem of the depressed classes and gave a pledge respecting them. "We intend to make the best arrangements that we can for their representation." The castes described as "Hindus—others" in the committee's report, though they are defined in varying

14. We come now to the question of special, as distinct from communal, electorates. The reforms Report (para. 232) expressed a desire that special electorates should be restricted as far as possible, and allowed only where necessary for the protection of minority interests. We find it difficult to hold that the eight university seats proposed by the committee satisfy this criterion. We can discern no real divergence of interests between the universities and the educated classes in general. If it were the case that the university seats were given to academic interest or high scholarship we should welcome their inclusion, but we cannot anticipate that the representatives whom they will return will be different in kind from those of the professional classes in general. The Indian university seats date from the time of Lord Dufferin, when they were instituted in the anxiety to make use of any corporate body of opinion that then existed in the country. For that purpose they are not now needed; and we are inclined to think that the only result of a departure from the principles of the Report will be to add to the representation of the professional classes, and to do something to carry politics into academic circles. We therefore find much difficulty in justifying their inclusion.

15. The next class proposed for special representation is the landholders. The position taken in the reforms Report was that "where the great land owners form a definite class in any province, we think that there will be a case for giving them an electorate of their own" (para. 232). Our view generally has been that the smaller zamindars ought to be encouraged to feel themselves part of the ordinary electorate; but that where a class of great landholders exist, raised by wealth or birth perceptibly above the level of the countryside, it would be practically necessary to recognise their peculiar status by giving them separate seats and a separate roll. At the last general reconstruction of the franchises in 1908-09 the lowest level of land revenue qualifying for this privileged category was put at Rs. 1,000. This limit was applied only to non-zamindar landholders in Madras and zamindars in Sindh, although the Surma Valley in Assam formed an isolated exception with its limit of Rs. 500. Elsewhere the limit ranged from Rs. 3,000 to Rs. 6,000, a standard of land revenue which clearly distinguished the men of high position. Inasmuch as we are now widening the ordinary franchise and seeking to restrict all kinds of special representation there is a case for tightening the franchise of this distinct landholder class. But the committee have proposed special landholder electorates everywhere, and have even admitted to this category some small landholders in the Punjab, where hitherto no special franchise existed and even a year ago was not suggested. We feel great doubt about this recommendation, and we should also like to re-examine with local Governments the proposals for Assam and Madras.

16. The committee (para. 21) have made no reference to the drastic reductions which they have effected in the proportion of landholder representation in all provinces except the Punjab and to some extent the United Provinces. On the whole we think that

this reduction is right and now gives the landholders sufficient, *but not excessive*, representation in the provincial councils The change incidentally favours the landholders of the United Provinces as compared with other provinces, but on examination we find that the principles upon which the existing number of *landholders' seats* was fixed were not altogether clear We imagine that the former disinclination of the great landholders of the United Provinces to intervene in politics explains the small measure of representation which they enjoyed, whereas in the process of later changes the tendency has been to give the landholders rather a larger voice Except therefore in one respect we are prepared to endorse the committee's proposals The local Government of the United Provinces proposed to disregard the Agra landholders altogether The committee have compromised by offering them one seat We do not think such a marked discrimination can be justified, and we feel that it will give dissatisfaction to the greater, and on the whole the more progressive, part of the provinces Admitting all that can be said in favour of the special status and corporate character of the Oudh talukdars, we feel that there are in Agra great landholders who are deserving of at least equal consideration It seems to us impossible to justify the proposed treatment of the Agra landlords in view of the committee's recommendations for other provinces In 1908 a United Provinces conference proposed to give two landholders seats to Oudh and three to Agra, in the event one seat was awarded to Oudh and one to Agra On the assumption that the province has six landholder seats we consider that three of them should be allotted to Agra

17 The special representation which the committee propose for commercial and industrial interests is stated in the subjoined table —

Name of Province	Planting	Mining	European Chambers of Commerce	Indian Chambers of Commerce	Trades Associations	Millowners Associations	Cotton Trade	Jute Trade	Tea Trade	Indian Associations	Inland Water Transport Board	General	TOTAL
1	2	3	4	5	6	7	8	9	10	11	12	13	14
1 Madras	1		2	2	1								6
2 Bombay			3	1	1	2	1						8
3 Bengal		1	4	1	2			2	2	2	1		15
4 United Provinces			2	1									3
5 Punjab												2	2
6 Bihar and Orissa	1	2										1	4
7 Central Provinces		1										1	2
8 Assam	5											1	6
TOTAL	7	4	11	5	4	2	1	2	2	2	1	5	46

These proposals seem generally reasonable. We have examined with some care the relative representation of commerce and industry in Bengal and Bombay, and also the similar representation suggested for Assam, and we are prepared to accept the proposals in the main. Since the committee's report was signed, however, the Government of Bengal in their letter of February 22 (a copy of which has been included in Appendix XIV, page 181, of the committee's report, though the letter was not actually considered by the committee) have proposed after consultation with the interests concerned to distribute the seats allotted to European commerce in that presidency rather differently from the committee. Their scheme involves giving European interests as a whole 15 seats in the council, as compared with the 14 seats proposed by the committee. We accept the committee's total but we think that the distribution should follow the local Government's proposals.

18. We come now to the very difficult question of communal electorates, which was discussed generally in paras. 227 to 231 of the reforms Report. The authors of that Report came to the conclusion that while communal electorates were bad in principle and must tend to delay the development of democratic institutions in India, it was for practical reasons necessary to maintain the special Muslim electorates and advisable to establish similar Sikh electorates in the Punjab. For the purpose of representing all other minorities they preferred to rely upon nomination, for the reasons which they gave in para. 232. These passages in the Report aroused great interest and attracted some criticism in India; and before the committee began their operations it was agreed that these expressions of opinion should not be regarded as too closely limiting their discretion. We attach an extract from His Excellency's speech upon this point at the opening of the sessions of the Indian Legislative Council in September last. In the event, communal electorates are now proposed not only for Muslims everywhere and for Sikhs in the Punjab, but also for Indian Christians in Madras, Anglo-Indians in Madras and Bengal, and Europeans in the three presidencies, the United Provinces and Bihar and Orissa. We feel the objections of principle to the communal system as strongly as the authors of the reforms Report but see no advantage at this stage in reiterating them. India is not prepared to take the first steps forward towards responsible government upon any other road. The road does not lead directly to that goal, and we can only echo the hope expressed by the committee that "it will be possible at no very distant date to merge all communities in one general electorate". Under existing conditions we see no ground on which the committee's proposals can be questioned. As regards the minor communities we accept the details also, except in so far as the distribution of the elective seats for Europeans requires further examination in communication with local Governments, inasmuch as the committee do not appear to have considered the complication introduced by the presence of a large military population.

19 Far the most difficult question, however, which arises in connexion with the representation *of interests* is the number of seats to be given to the Muhammadans As you are aware, representatives of the Indian National Congress and the All-India Muslim League met at Lucknow in December 1916 and arrived at an agreement respecting the proportion of seats *to* be allotted to the Muhammadan members in the various provincial legislatures and the Indian Legislative Council The committee, adopting the recommendations of most though not all of the local Governments, have made their proposals *conform to* this agreement They found that most of the Indian opinion presented to them in their inquiry adhered to the compact, and they thought that to depart from it would revive a troublesome controversy We realize very strongly the *force* of this observation At the same time before deciding to endorse the committee's conclusion, we are bound to *examine* the agreement in the light of the principles laid down in the Report *on constitutional* reforms, and also of its effect in the various provinces We note that local Governments were not unanimous in subscribing to the compact The Government of Madras framed their own proposals *for* Muhammadan representation without regard to it The *Bombay* Government while adopting the compact did not rule out from discussion a scheme of representation upon a basis of population The Chief Commissioner of the Central Provinces was opposed to separate Muhammadan electorates and considered that the percentage *proposed* in the *compact* was "*wholly disproportionate to* the strength and standing of the community" The Chief Commissioner of Assam thought it was a mistake, even from a Muslim point of view, to give that community representation in *excess of their* numerical proportion

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These proposals seem generally reasonable. We have examined with some care the relative representation of commerce and industry in Bengal and Bombay, and also the similar representation suggested for Assam, and we are prepared to accept the proposals in the main. Since the committee's report was signed, however, the Government of Bengal in their letter of February 22 (a copy of which has been included in Appendix XIV, page 181, of the committee's report, though the letter was not actually considered by the committee) have proposed after consultation with the interests concerned to distribute the seats allotted to European commerce in that presidency rather differently from the committee. Their scheme involves giving European interests as a whole 15 seats in the council, as compared with the 14 seats proposed by the committee. We accept the committee's total but we think that the distribution should follow the local Government's proposals.

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21. The actual effect of the Congress-League agreement can be judged from the following figures:—

—	Muslim percentage of population.	Percentage of Muslim seats proposed.	Percentage (2) of (1).
	(1)	(2)	(3)
Bengal	52·6	40	76
Bihar and Orissa	10·5	25	238
Bombay	20·4	33·3	163
Central Provinces	4·3	15	349
Madras	6·5	15	231
Punjab	54·8	50	91
United Provinces	14·0	30	214

The result is that while Bengal Muhammadans get only three-quarters and the Punjab Muhammadans nine-tenths of what they would receive upon a population basis, the Muhammadans of other provinces have got good terms and some of them extravagantly good. We cannot ourselves feel that such a result represents the right relation either between Muhammadans in different provinces, or between Muhammadans and the rest of the community.

22. If we were writing on a clean slate, we should greatly desire to establish a ratio of Muhammadan seats which would bear a closer relation with their strength as a community, while amply fulfilling our undertakings to safeguard them as a minority. In determining that ratio in the various provinces, we should have to start with certain established data. In the first place, the Muhammadans have been definitely promised some electoral advantage on the ground of their political importance. We should have to measure that advantage and to fulfil that promise. Secondly, the Muhammadans are the poorer community, and therefore any property qualification common to them and the Hindus will make the Muhammadan electorate smaller in proportion to the Muhammadan census than will be the case with the Hindus. In the third place, the census strength of the Muhammadans by no means corresponds to their political strength. In Bengal and Assam the Muslims are political weaker than their numbers would indicate, while in the United Provinces with 14 per cent. of the population they are incomparably stronger than in Bihar and Orissa with 10·5 per cent. Past history and the presence of Muhammadan centres count for much. Fourthly, it might be argued that inasmuch as a majority can always impose its will upon a minority, it does not greatly matter whether the Muhammadans in places where they are in a conspicuous minority are awarded for example, 15 or 20 per cent. of the seats. But we think it a valid answer to observe that the effectiveness of a minority depends upon its being large enough to have the sense of not being entirely overwhelmed. Finally, we should have to remember that whatever advantage is given to the Muhammadans is taken away from some other interest or interests. These considerations would suggest to us a system of weighting which would lead to

different results from those agreed on at Lucknow It would no doubt involve assumed factors, but these would have a more logical basis than those embodied in the compact

23 We are not writing however on a clean slate. The Congress-League compact is an accomplished fact and a land-mark in Indian politics which we cannot possibly ignore. The actual terms of the agreement were the result rather of political negotiation than of deliberate reason, and in their final form they were closely affected by accidents of place and personnel But the last thing that we desire is to be little the importance or significance of concord between the two parties upon so highly controversial a subject The difficulty with which the agreement was reached is a measure of the earnest efforts made to attain it; and those efforts imply on behalf of the larger community at least a subordination of their immediate interests to the cause of unanimity and united political advance which we should be sorry to appear to under-value Since the compact was made, there has been some reaction against it Several of the more conservative Muslim associations of the Punjab are ill-content with the measure of representation assigned to them, while a large section of Bengali Muhammadans repudiate the agreement altogether and have besought us not to give effect to it Nevertheless, the Muhammadan community as a whole has not disavowed the action of the League Organised Hindu political opinion stands by the action of the Congress We feel, like Lord Southborough's committee, that the compromise, whatever may be its defects, is not one that we ought to re-open, and that it would be a poor recognition of the genuine efforts that have been made in the cause of unity if we were to throw this very difficult problem into the melting-pot again

24 We accept therefore the conclusions of the committee except in one respect The Muhammadan representation which they propose for Bengal is manifestly insufficient It is questionable whether the claims of the Muhammadan population of Eastern Bengal were adequately pressed when the Congress-League compact was in the making They are conspicuously a backward and impoverished community The repartition of the presidency in 1912 came as a severe disappointment to them, and we should be very loath to fail in seeing that their interests are now generously secured In order to give the Bengal Muslims a representation proportionate to their numbers, and no more, we should allot them 44 instead of 34 seats; and we accordingly propose to add ten seats to those which the committee have advised on their behalf Whether the addition should be obtained by enlarging the council or by withdrawing seats from other interests, or by a combination of both plans, is a matter on which we should certainly have to consult the provincial Government We should also be largely guided by their opinion in determining whether the extra seats should be filled by election or by nomination Our colleague Sir Sankaran Nair, however, would accept the committee's report

25 We agree with the committee that there is no justification for admitting the claims for separate electorates put forward by the smaller communities mentioned in para 18 of their report But we conf

to the greatest difficulty in accepting their proposals in regard to non-Brahmans in Madras. If, contrary to theoretical principles, communal electorates are to be conceded to three communities in addition to the Muhammadans and the Sikhs, then it appears to us that there is a very strong practical need for finding some means of dealing specially with the non-Brahmans also. The committee were evidently dissatisfied with the position, and saw the need for some settlement which would dispel the anxieties of the non-Brahmans. At the same time they advise that no attempt to reach such a settlement should be made until statutory effect has been given to their own proposals although these ignore the position of the non-Brahmans altogether. We see grave practical objections to this suggestion. If the reforms scheme is not to start under a very heavy handicap in Madras, the bitter feelings which have been aroused by this controversy must be allayed. We cannot expect co-operation and good will from the non-Brahmans so long as no provision is made to secure their interests. We do not regard it as sufficient to say, as in effect Lord Southborough's committee have said, "since you will not assist us to find a solution, we can do nothing for you". Our own responsibility for the contentment of the country makes it incumbent upon us to make every attempt to arrive at a settlement which will satisfy the reasonable claims of both parties before reforms are introduced. It is indeed not only the two contesting parties who are interested. The Madras representative upon the subjects committee has declined to recommend the transfer of any subject in Madras unless separate provision is made for the non-Brahmans; and though we have not been in communication with the Madras Government, it would not surprise us to learn that they share his views of the need for securing the interests of that body.

26. Various possible solutions are discussed by the committee. They reject a scheme for separate electorates on the ground that it would force the Brahmans into a separate electorate against their will. This argument may be discounted by the fact that in the eyes of many Hindus this is what has already been done in the case of the Hindus; but hitherto separate electorates have been established in the interests of minorities only, and to extend the system in the interests of majorities seems to us again open to serious objection. On the other hand we do not think that the committee have attached enough weight to the immense power of the Brahmans in combination. They point out that the non-Brahmans will be in a majority of four to one in the electorates, and they "cannot but think that, if the capacity already devoted to politics among non-Brahmans were utilized in organizing this great majority, the non-Brahmans would in no long space of time find that such a preponderance of votes would make itself effectually felt despite the power and influence of the Brahmans." We are less optimistic. Recent experience in Madras has shown how inadequately non-Brahmans are likely to be represented in the council, unless some special provision for them is made. Numbers count for little in India at present against social, educational, and especially religious superiority which has behind it the sanction of centuries. We shall find

it hard to meet the charge that we are acquiescing in the establishment of an oligarchy in Madras, unless something is done to secure to the non-Brahmans a fair share in the legislature It would, in our opinion, be a mistake to wait for any move by the non Brahmans We share the committee's views regarding the undesirability of *forcing a separate electorate on the* Brahmans, but we are anxious to consult the Madras Government in regard to the reservation of non-Brahman seats in plural constituencies It seems to us that the constituencies might be arranged in such a way that thirty out of the sixty one non Muhammadan seats could be reserved for non-Brahmans, while both parties might contest the remaining seats without restriction

27 At the same time, if divisions in the Hindu community are once recognised in the electorate, as in the case of the non Brahmans in Madras, we admit that it becomes extremely difficult to resist the claims of the Mahrattas in Bombay Their case is stated, from three different points of view in para 5 of the Bombay Government's memorandum at pages 135 6 of the report The Mahratta question is by no means so acute as the non-Brahman questions and the Bombay Government seem to think that with the system of plural constituencies proposed for many districts in Bombay the Mahrattas ought to secure fair representation The case, however is a somewhat doubtful one, and we should like to consult the *Governor in Council particularly upon it before making our final* recommendations

28 We come now to the distribution of representation between town and country The committee have not dealt with this question on any uniform system, and we cannot but think that this detracts from the value of their recommendations The point is an important one, and as it seems to us requires reasoned treatment After religion and race, the boundary between town and country is the greatest dividing line that runs through the Indian people It corresponds closely with the division between progress and conservatism, between English education and vernacular between experience of self government and lack of such experience between the existence of newspapers, professions, bar libraries, societies, etc, and their absence It is roughly the difference between the old Indian and the new, the forces that are pressing us forward and those that are holding us back These are in our view elements which ought to be measured on a uniform scale all round, and the relative importance of which ought to be assessed in each province The committee have not attempted this task What they have done is to accept the schemes for urban electorates put forward by provincial governments, with indifference to the fact that these are based *on very varying principles* In Madras, *Bombay, Bengal* and the United Provinces the method adopted has been to take very large towns only and either to give them separate constituencies or to group two towns together in one constituency at the other extreme is the system adopted in the Punjab and Bihar and Orissa of separating only one or two of the very largest towns, and then grouping all other towns, cantonments, and in the Punjab even notified areas of one or two divisions into single constituencies

between these extremes comes the Central Provinces system of grouping towns varying in population from 46,000 to 4,000 into groups of from three to nine towns and making each group a constituency. We cannot think that all these varying principles can be sound. That their adoption will give rise to great inequalities is shown by the following statement:—

Name of province.	Percentage of urban seats in general, non-Muslim, Muslim and Sikh seats.	Percentage of total population living in towns with population of over—				
		5,000.	10,000.	20,000.	50,000.	100,000.
1	2	3	4	5	6	7
1. Madras	15	16	10	6	3	2
2. Bombay	22	20	15	12	9	8
3. Bengal	23	8	6	4	3	3
4. United Provinces	14	9	7	5	4	3
5. Punjab	18	12	8	7	5	3
6. Bihar and Orissa	14	5	3	2	1	½
7. Central Provinces	18	8	5	3	1	1

In every province, whatever their differences of industrial or commercial development, there must come a stage in the growth of towns, though it need not be the same stage everywhere, where proximity of residence gives rise to distinctively urban interests. In para. 133 of the reforms Report it was suggested that the beginnings of such a process occurred in towns of 10,000 people; many persons would agree that for political purposes the process was sufficiently complete in towns of 50,000 people and not in towns of much smaller population. We would have preferred that some such standard should have been adopted in the first place, and thereafter some uniform system of weighting applied to the town representation. This would give a reasonable and a roughly uniform representation to the urban areas in the various provinces. We may illustrate our meaning by an example. If we take a population of 50,000 as the criterion for a town, and if we decide that a town population should have twice as much representation as the rural population, then accepting the percentages in column 6 of the statement above we should fix the proportion of urban representation in the various provinces as follows:—

	Per cent.
Madras	6
Bombay	18
Bengal	6
United Provinces	8
Punjab	10
Bihar and Orissa	2
Central Provinces	2

The results would be markedly different from those of the committee's method of procedure. We do not put them forward as a final solution; but we feel that the question requires more examination from the point of view of principle than it has received.

29 The committee propose certain changes in the regulations regarding the qualifications for candidates For the reasons already given in para 3 of this despatch we are unable to agree that subjects of Indian States should be eligible for election as members of legislative councils We also doubt the need for the proposal that dismissal from Government service should only operate as a disqualification if it involves moral turpitude, the duty of deciding this question of fact being laid on the Governor This proposal seems to imply that men may be dismissed from Government service without a stain on their character, this is not the case, and we would prefer to leave the disqualification as it stands at present Our colleague Sir Sankaran Nair would accept the view of the minority stated in para 27 of the report The next change proposed by the committee has also reference to the same criterion The existing provision that no one should be a candidate against whom had been passed a sentence of more than six months' imprisonment or an order to give security for good behaviour is modified by the same 'moral turpitude' condition, (though at present the Governor in Council is empowered to remove this bar), and by the omission of any reference to the preventive sections In the following rule relating to disbarred lawyers the word "court" is substituted for authority With the exception of the last, we do not regard these changes as improvements and should prefer to leave the rules as they stand at present The committee, though they make no mention of the fact, further propose to omit altogether the important rule which empowers the Governor in Council to disallow the candidature of any person whose character and antecedents are such that his election would be contrary to the public interests This rule was introduced in 1909 after much discussion between Lord Morley and Lord Minto's Government Its loss may be inconvenient, but we are not disposed to press for its maintenance, we incline to regard a provision of this nature as inconsistent with the new conception of representation

30 The committee's treatment of the question of residential qualifications has placed us in some difficulty Their recommendations do not accord with the opinions received Five local Governments asked for the insertion of a qualification of residence within the constituency, three did not press for it The committee propose to adopt the qualification in three cases out of the five, but not in Madras or Bengal The three English members of the committee with Indian experience dissent from the majority proposal and would adopt the qualification in all provinces On the whole, amid this diversity of views, we have decided to accept the committee's proposals, mainly because we doubt the effectiveness of insistence on the residential qualification, but also because it will give us an opportunity of testing it by results in different areas Some of the arguments that have been urged against the qualification do not appeal to us For example, alarm has been expressed by Indian politicians at the suggestion that rural areas may return members who will only be able to follow the proceedings in the vernacular We feel, on the contrary, that unless this result is secured the rural areas cannot be properly represented, the control of business must

pass entirely into the hands of the limited English knowing classes, and the intentions of our reforms will be in serious jeopardy. As we have said, however, we are prepared to allow the experience of different provinces to show which rule has the more beneficial result.

The Indian legislature.

31. We now come to the very difficult questions connected with the composition and functions of the Indian legislature; and before we examine the committee's proposals, we would ask you to consider the main problems which must underlie all questions of detail. The principle of bifurcation in the central legislature for the sake of obtaining a better representation of interests therein, is accepted by us; though our colleague, Sir James Meston, would have frankly preferred to make no radical change in the structure of the central legislature until experience had been gained of the changes contemplated in the provinces. We all agree, however, that, be the form of the central legislature what it may, the power of the Government of India to secure the legislation which they desire in essential matters must, as stated by the authors of the Report, remain indisputable.

32. There are two ways in which a bicameral legislature can be created consistently with this cardinal requirement. The first is the method of the Report. The Council of State is there designed not primarily as a revising chamber but as the organ, when the occasion requires, of essential legislation. The idea of the authors is that the Governor General in Council should have power, by certificate, to secure legislation that he deems essential to peace, order or good government, either through the Council of State alone in the event of a sudden emergency, or by the Council of State in disregard of the wishes of the Assembly in cases where that body had taken a line which would defeat the purpose of the legislation. Under this scheme there would indeed be provision for joint sittings at which the will of the majority would prevail; but that arrangement would not be intended for Government legislation to which there was strong non-official opposition. The figures given in para. 282 of the Report make it plain that no Government Bill which did not carry with it a substantial part of the non-official vote could succeed at a joint sitting. The Report definitely relies upon the special certificate power to secure essential legislation. It follows that if the Council of State is as a matter of regular practice to serve when required as an effective legislature, it should comprise a strong elected element; and this the Report proposes (para. 277) to provide by the method of indirect election by the non-official members of provincial councils. At the same time the authors of the Report indicate that they do not look on this position as final: it is their aim that the Council of State should develop into a normal second chamber (paras. 278, 281); and they seek to give it from the outset something of this character by advising that qualifications be prescribed which will ensure a certain dignity and sobriety in its membership.

33. The other method of attaining the object in view places less

reliance on the certificate power and more on the joint sitting Its advocates doubt whether the certificate power will in practice be sufficiently elastic and durable to ensure at all times the passing of essential Government legislation While therefore they would retain the certificate for use only in an extreme emergency, they would so constitute both chambers as to afford the Government a reasonable chance of securing enough support among the many different interests represented to carry their Bills at a joint session So stated, the divergence of views may not appear very striking, but any departure from that part of the scheme which treats the certificate procedure as the mainstay of Government legislation at once opens the door to a very different constitutional position There would then be good reasons for constructing India s bicameral legislature on the lines of others in the world, leaving the progressive elements to find their representation in the Assembly, and giving the Council of State the definite character of a revising chamber by making it the organ of conservative and stable opinion

34 Between these two alternatives the main issues are fairly clear, but additional complications arise from the fact that the committee s report throws little light upon the practical possibilities of the methods of election to the Indian legislature If the Assembly could be constituted by direct election, then the indirect election to the Council of State which the first plan involves might be accepted as no more than a minor drawback If however, it becomes necessary to choose the elective portion of the Assembly by indirect election, and if no better electoral colleges can be devised for it than the non official members of the provincial councils, then we are faced with the serious anomaly of one and the same very limited electorate choosing representatives to both chambers When on this situation the additional limitations of the communal system are superimposed we doubt if the resulting position would be tolerable On the other hand if the Council of State were to be constituted on ordinary senatorial lines, it would naturally be chosen by direct election and by a restricted electorate The nature of the elections to the Assembly though still an important question in itself, would then at all events not complicate the question of the method of constituting the Council The reasons for establishing direct election however for the lower chamber would indirectly gain in strength for it would be anomalous that the popular body should have a less direct mandate than the revising body

35 These seem to us the *governing conditions of the problem* before us As we said in para 114 of our first despatch, the terms of reference to the franchise committee precluded them from reviewing the whole of the relevant considerations They were not invited to consider either the functions or the composition of the Council of State but were asked to advise on the composition of the Assembly on the assumption that the Council of State would be constituted in the manner and for the purposes proposed in the Report, and as regards the Council of State to examine only the m[illegible] of election and this limitation must be borne in mind [illegible] their proposals *The committee's recommendations* [illegible]

are briefly stated in para. 33 of their report. They have not referred to the proposals which we ourselves placed before them, and which are repeated in Appendix III to this despatch. We hoped to discuss our suggestions with the committee in the light of the information which they had collected in the provinces, and without which it was clearly impossible for the Government of India to formulate a complete scheme. In particular, we were anxious that the possibility of direct election to the Assembly, to which we attached great importance, should be examined in the light of the provincial figures for electorates; but there were other questions, in particular, questions of the balance of interests, on which, had time permitted, more light would have been thrown by an exchange of views. The chairman thought that nothing would be gained by a conference at which the Government of India were not prepared to formulate a complete scheme; he preferred to conclude his report without conferring with us: and there are therefore some points on which the reasons for the committee's divergence from our own proposals are not clear.

36. The committee have accepted our view that if all the interests which, following the plan of the Report, it is desirable to include are to find representation in the Assembly, the strength of the elective portion of that body must be raised to 78 or 80. The differences of detail between the committee's scheme and our own are exhibited in the following tables:—

Government of India's proposals.

—	General.	Muslim.	European Interests.	Landholders.	Indian Commerce.	Sikhs.	City.	Total.
Madras	9	1	1	1	..	..	..	12
Bombay	5	1	2	1	2	..	1	12
Bengal	5	3	3	1	1	..	1	14
United Provinces	8	3	1	1	..	..	..	13
Punjab	3	3	..	1	..	1	..	8
Bihar and Orissa	6	1	..	1	..	..	..	8
Central Provinces	3	..	..	1	..	..	..	4
Assam	2	..	..	..	..	..	..	2
Burma	3	..	1	..	..	..	..	4
European non-official Community.	..	..	1	..	..	..	..	1
TOTAL	44	12	9	7	3	1	2	78

Committee's proposals

—	General	Communal: Muslim	Communal: Sikh	Landholders: Non Muslim	Landholders: Muslim	Landholders: Sikh	European Commerce and Planting	Indian Commerce	Total
Madras	7	2		1			1	1	12
Bombay	4	3		1	1		1	2	12
Bengal	5	3		1	1		2	1	13
United Provinces	6	3		1	1		1		12
Punjab	2	4	1		1	1			9
Bihar and Orissa	6	2		1					9
Central Provinces	4	1							5
Assam	1	1					1		3
Burma*	2	1					1		4
Delhi	1								1
Total	38	20	1	5	4	1	7	4	80

*The allotment for Burma is only tentative

As you will see, there is no great difference between our respective ideas of the strength of the non special (general *plus* communal) representation but the committee have applied the Congress League compact which related to the Indian legislature as a whole, to the Assembly as a unit by itself and have recommended a higher proportion of Muslim seats (24 out of 73 Indian elected seats) than our proposals, which were based on their strength in the various provinces, would give them While the majority of us are prepared to accept their recommendation on this point, our colleague Sir William Vincent *dissents, and regards the Muslim representation* proposed by the committee as excessive The special interests for which we proposed to make provision were the great landholders, European interests, Indian commerce and the two large cities of Calcutta and Bombay The committee have omitted any special urban representation they have not taken into account any European interests outside commerce, they have increased the representation of the landholders proposed by us from 7 to 10, they have decreased the European seats from 9 to 7 and have increased the seats given to Indian commerce from 3 to 4 It would have been convenient if they had stated their reasons We think that the representation of landholders is excessive in itself, considering their representation in the Council of State and that its distribution between provinces *does not accord with the importance of the landed classes* in them Moreover the committee's treatment of landed property in the Assembly, where its interests are probably less immediate than in the provincial councils, is not consistent with the restricted representation which they have assigned it in the latter We think that it would be disproportionate to reserve one elected seat to Delhi, its interests, when necessary, like those of any other

... by nomination. We also
... the European representation.
... Excellency's speech which we
... questions which will come
... interest to European commerce,
... represented there. We feel
... Committee's scheme is open to cri-
... it until we know how it is

... method of election the com-
... to the Assembly is impossible.
... not unanimous in accepting. Some
... given in para. 34 of the com-
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... of the provincial material is
... mentioned in their report (para.
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... province in the Assembly shall
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... Appendix IX. We agree with them
... feasible: the Muhammadan members
... not wish their own representatives in
... electorate in which the Hindus pre-
... to be communal, the consti-
... that on the average ... voters
... be smaller still. In ..., for
... Muhammadan members with the possi[illegible]
... nominated member would return two
... Bihar 17 Mu[illegible] ...an members w[illegible]
... 9 ... -electors wou[illegible]
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elections are ever to be attained for the Assembly, and they would much prefer to take this step at once Instead of concluding that this would give too much power to the landholders, who according to the committee would also *enjoy their separate representation*, they would propose first to ascertain what voters would be forthcoming on the new roll in urban and rural areas, and then to decide the details of the constituencies it might well be that no separate seats for landholders were needed

39 The majority of us are prepared to accept the committee's finding We do so with regret, for we look upon direct elections as the only system that is compatible with true responsibility to the voters And we do not accept any arguments which would relegate the creation of a *direct electorate for the Assembly to an* indefinite future We consider that it will be the clear duty of the Government of India to devise such an electorate before the enquiry of the first statutory commission But for the moment we recognize that the large electorates for the provincial councils could not be polled again for the chambers of the Indian legislature, and it will take time to work out a separate franchise which will not be too high or very artificial or so diffused as to make canvassing impracticable We take the committee's proposals therefore as they stand, subject to the criticisms of certain details in the foregoing paragraphs We agree to an Assembly composed of 80 elected and 40 nominated Members, of whom 26 shall be officials, and until the first statutory commission reports, we would allow the elected members to be chosen by the non-official members of the provincial legislatures The nominated members we should apportion as follows —

Official Members

[illegible]	7
[illegible]	7
experts	12
	26
Non-official members	14
TOTAL	40

40 Turning to the Council of State, the committee have recommended a slight addition to its elected element, and consequently to its total strength In this conclusion we agree, but the main argument that weighs with us is that, unless the original proportion of size is maintained between the two bodies, the Council of State may lack the authority which should attach to it in cases where its opinion is in opposition to the Assembly We do not give the same weight as the committee have done to the need for nicely adjusting the claims of the provinces and the communities in the Council of State as well as in the lower chamber They have here departed from the scheme of the Report as regards the special Muhammadan and landholder seats, and have proposed that these also shall be filled by the non-official members of the provincial councils, while Appendix X of the report shows that the elections are to follow class and communal lines The proposal is in

our view unworkable. It would allow nine Sikh electors to return a member to each chamber; and it would enable six landholder voters in the United Provinces to return a member to the Council of State at each election. We cannot approve of a scheme which yields such results. Our aim should be the representation of all important interests on a broad scale, and we should eschew refinements which really have the effect of destroying it.

41. Nor can we accept the proposals of the committee for the method of election to the Council. Whether direct election for the Assembly is impossible is a question on which, as we have said, we are not unanimous; but we all agree both that direct election to that body is strongly to be preferred, and that if it cannot be attained there is no alternative but to create new constituencies electing directly to the Council of State. To obtain the elected members of both chambers from the same electoral college would reduce the smaller chamber—the Council of State—to a position barely distinguishable from that of a standing grand committee of the Assembly. We are anxious that the Council should partake of the character of a hall of elder statesmen; and for that purpose we should make its membership subject to a high standard of qualification. Having gone so far, we should see no difficulty in advancing a step further and providing for each province an electorate of from 1,000 to 1,500 voters, possessed of the same qualifications as those which we should prescribe for membership of the Council of State, who should be required to elect to that body from among their own number. The details would vary between provinces and it would of course be necessary to consult local Governments upon them. There is ample time before the first elections for these special rolls to be prepared, and we recommend that the inquiry should be to this extent reopened.

42. Assuming therefore that the Assembly is enlarged our provisional proposals as regards the Council of State would take the following form:—

Elected by restricted constituencies in:—		
Madras, Bombay, Bengal, the United Provinces and the Punjab (3 each)	15	
Bihar and Orissa, Burma and the Central Provinces (2 each)	6	
Assam	1	
Elected by Chambers of Commerce	2	
Total elected members		24
Nominated non-official members		4
Official Members—		
Members of the Executive Council	7	
Secretaries to the Government of India	10	
Provincial and departmental officials	11	
TOTAL		28
GRAND TOTAL		56

In allowing for communal interests, we should reserve for Muhammadans one seat in each of the provinces which have three seats, and one seat alternately in Bihar and Orissa and in the Central Provinces. One of the Punjab seats we should keep for Sikhs.

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MINUTE OF DISSENT.

On three points of importance I regret that I find myself in disagreement with this despatch

Congress League proposals

2 My colleagues have decided to accept as a basis of the Muhammadan representation, both in the provincial and Indian legislatures, the ratios agreed on by the Hindu and Muhammadan representatives in December 1916 in what is known as the Congress League compact, except that they propose one substantial modification of the figures so as to give the Muslims 10 more seats either by election or nomination in the Bengal legislature

3 I agree with the view taken in para 21 of the despatch that the results of the Lucknow compact are defective I consider that it gives the Muhammadans of two provinces too little and the Muhammadans of at least two provinces too much In each case the result is of primary importance to the province itself, and on the Government of India lies the responsibility of deciding whether to endorse such local inequalities because certain political leaders assented to them I trust I do not misrepresent my colleagues when I say that they do not regard the Muslim League at all events as entitled to speak for all Muhammadan interests and that this consideration largely influenced them in proposing to vary the Bengal representation We know that several Muhammadan deputations which addressed His Excellency and the Secretary of State in 1917 dissociated themselves from the League proposals The same consideration makes it harder to accept the settlement on an all India and not on a provincial basis If we disturb it as my colleagues have found themselves driven to do in two important respects (for they agree, I understand in setting aside the proposal discussed in para 164 of the Report), we do so honestly with no wish to reopen a controversy that a section of political opinion regards as closed, but simply because in this highly important matter we cannot delegate our responsibility to Parliament into other hands It appears to me therefore that if we think we can see our way to a fairer settlement we ought not to be deterred from saying so for no better reason than because we fear that we may possibly be unjustly suspected of sinister intentions Like my colleagues I have no wish whatever to be little the fact of agreement but my view is that the Government of India if they think the terms of it defective ought not to feel bound by them The compact meets with much more acceptance than criticism at the present time but hereafter when the value of votes and representation comes to be realised it must be expected that the interests which are hard hit by it will complain with some justice that the Government of India should have endorsed it In my view therefore we should proceed without regard to the details of the Lucknow settlement to fulfil our own pledges to the Muhammadans in what we ourselves think is the fairest way

4 In the first place while I agree with the reasons given in para 24 of the despatch I should like to state my views upon the point more

definitely. Lord Minto gave on behalf of the Government of India a binding pledge to the Muhammadans which Lord Morley endorsed and Lord Hardinge repeated that their position should be estimated not merely on their numerical strength but with respect to their political importance. The Muslims of Eastern Bengal stand in need of protection perhaps more than any other part of their community. They are, as the despatch says, impoverished and backward, and unless we specially help them will have little chance in competition with other communities. This was shown in the days before partition when their interests did not secure sufficient hearing. The desire to help the Eastern Bengal Muhammandans was one of the reasons for the partition of Bengal. That their position improved while the province of Eastern Bengal and Assam lasted is a well-known fact. The repartition of 1912 came as a heavy blow to many of them. I doubt whether in the Lucknow agreement of December 1916 their interests were adequately represented. I have been much impressed by the arguments which have since been addressed to the Government of India by Saiyid Nawab Ali Chaudhuri, a member of the Indian Legislative Council, on behalf of the Muhammadans of Bengal; and I consider that they should get representation in the Bengal Legislative Council in proportion to their population strength.

5. I accept the principles laid down in para. 22 of the despatch. They lead me to conclude that what is wanted is a sliding scale in which the weighting given to Muhammadans increases as their numerical weakness does. We have, as the despatch says, to measure the advantage to be given to them. To do so some arbitrary assumptions must obviously be made. The fewer and simpler these are, the better. Where the Muhammadans are in a census majority let them get representation in that proportion. Where they are at their weakest, let us double that proportion; I can see no practical reason for going further than that. Between these extremes let us multiply the census ratio of the Muhammadans by a factor greater than one and less than two. I recognize that a purely mathematical treatment will not suffice; the strength of Muhammadan interests in the United Provinces, Bombay and Bihar and Orissa calls for some further moderate adjustment; and my final proposals would accordingly be:—

	Population percentage.	Proposed percentage of seats.
Punjab	54·8	55
Bengal	52·6	53
Bombay	20·4	28
United Provinces	14·0	24
Bihar and Orissa	10·5	20
Madras	6·5	12
Central Provinces	4·3	9

6. It has been said that no proposals which depend on any assumed factors can command universal assent, and it has also been implied that once arbitrary factors are introduced one set is probably as good as

another I agree that universal assent cannot be looked for, but I think that, since we are compelled to make assumptions we should make them on a reasoned basis rather than follow the compact I think that my proposed scale does no injustice anywhere and is defensible on reasoned grounds and that it ought to commend itself to reasonable people I propose therefore that it should be put out opinion

7 As regards the representation in the Indian legislature I would observe that on a proportion basis the Muhammadans are entitled to 23 per cent of the elected Indian seats Some special constituencies (commerce, and as I think landholders also) cannot be suitably subdivided on a communal basis, and in these it must be expected that non-Muslims will predominate On the whole I should be prepared to give the Muhammadans 30 per cent of the general and communal seats in the Assembly In the Council of State there is no room for these nice adjustments, and I would secure the Muhammadans by nomination if their representation by election is deficient

Indian legislature

8 The other two points upon which I am unable to share my Hon'ble Colleagues' views both concern the Indian legislature I am not prepared to accept the committee's opinion that indirect elections are invitable for the new Assembly, and while my colleagues' proposal to institute direct elections for the Council of State is a step in the direction of my own views, it is only a partial step, and the difference between us as to the functions and structure of that body is still wide and grave enough to leave me no choice but to explain my own position

9 Para 33 of the despatch is a concise presentation of the views I hold, but I desire to state them more fully After considerable experience of the present legislature I am convinced that it would be unsafe for the Government of India to rely solely on the certificate power to pass their legislation when it is likely to provoke opposition A scheme which purports to give the Indian legislature control over legislation, coupled with a reserve power of placing legislation in disputed cases under the control of the Government, must to my mind have this result that the use of the certificate power will be regarded as autocratic and will evoke reprisals I am anxious not to press the argument too far, because I have agreed to the adoption of somewhat similar arrangements in the provinces But (as the Report points out in para 277) the two cases can be clearly differentiated and what may be true of one need not necessarily be true of the other In the first place legislation in the provincial councils is not of the same moment as legislation in the Government of India It is in the central legislature that the ultimate issues arise, and moreover if the certificate procedure should fail to give us essential legislation in the provinces we have retained for the central legislature an overriding power of legislation for the defence of all-India interests In the Indian legislature we have no such reserve power There is another point of difference The grand *committee* in the provincial council will have a non official majority, and there will be more justi-

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fication in the popular view for committing a Bill to such a body than for committing it to the Council of State with its official majority. I do not deny that the grand committee plan involves risks: I say only that I am prepared to run greater risks in provincial matters than I am willing to face in the affairs of the supreme Government. I feel that the result of using the certificate power, except in the plainest emergency, may be that the Assembly irritated by recourse to it will, with its large elective majority, retaliate by adopting an obstructive attitude to all Government business. In the face of such tactics I regard the certificate power as difficult to use save in very exceptional circumstances and as dangerous in its consequences. I would not abandon it entirely, but believing that it should be reserved for extreme cases, I desire to see the Indian legislature so constituted as to give Government Bills a reasonable chance of being passed at a joint sitting of both houses, if a fair share of support can be secured from moderate Indian opinion. This plan would entail some reconstruction of both chambers. I need not go fully into details; but may state my opinion that the elective element in the Assembly should be decreased from 66 to 60 per cent.; that the representation of the landholders and of commerce should be transferred to their appropriate place in the upper chamber, the Assembly being thereby kept at a limit of 100; while the official element in both chambers would be somewhat increased. These changes would really give the Council of State the regular character of a revising chamber. My colleagues propose to give it more of this character than the Report does by letting it be choosen by direct elections on a general but very restricted franchise. If I may say so, I think that what they thus gain in the direction of giving the Council as a senatoral character, is outweighed by the difficulty of justifying their departure from the proposals of the Report as regards the structure of a chamber whose functions they would still leave as proposed in that document. Their Council will indeed escape the worst features with which the committee proposed to endow it, but it will not retain the character required in a body which they intend to serve not seldom as the sole effective legislature. They still propose to leave some conservative elements represented in the Assembly; but the resulting situation is that while these elements in both chambers will have a direct mandate, the popular and progressive elements which figure only in the Assembly will depend on indirect election. Even as a temporary expedient I think that this is wrong.

10. I believe that the key to our difficulties regarding the central legislature plainly lies in getting direct elections generally to the Assembly. My colleagues clearly realise the objections to any other course, but most of them are disposed to accept the committee's finding that no alternative is for the present possible. I cannot subscribe to this. I think that indirect elections are open to the gravest objection; that the question of direct elections has not yet been fully investigated; and that inasmuch as my colleagues propose a further reference to local Governments about the elections to the Council of State, there is no good reason for not extending the scope of that reference to the Assembly elections too. The last point seems to me to need no argument. I will briefly give my reasons as regards the other two.

11 The proposal put forward by Lord Southborough's committee is that 70 per cent of the elected members of the Assembly shall be elected by the non official members of the provincial legislative councils voting on a communal system A total electorate of 601 voters will return 55 members on the average six votes will suffice to secure a member's return A member may secure one of the general seats if he gets six votes and one of the Muhammadan or Sikh seats if he gets five This is the system on which, for a period of ten years, my colleagues are prepared to base the greater part of the popular chamber of the new and reformed Indian legislature I have re read para 83 of the Reforms Report which deals with the much milder anomalies which characterised the Minto Morley provincial councils and having done so I can only decline to continue what is in my judgment a worse arrangement

12 Para 34 of the committee s report does not convince me that the question of direct elecion has been examined thoroughly If I am right in my sarmise, there were doubtless good reasons for this result Other questions were more pressing and local Governments were more interested in them I quite agree with the committee that the provincial franchise will not do for the Assembly I see no objection to taking a higher franchise than for provincial elections, but it need not be of an oligarchical nature There is no need to go so high as the present Muhammadan franchises mentioned by the committee, the average constituency which I have in view would consist of four or five districts and 4 000 or 5,000 voters The maintenance of rolls of this size would not add appreciably to the heavy labours which are to be in any case undertaken That the constituencies would be large in size it is impossible to deny It cannot be otherwise British India is 246 times the size of the average district, and unless we propose to enlarge the Assembly far beyond the limits which practical considerations impose, any system of direct election whatever, now or ten years hence, must mean large constituencies Nor do I underrate the drawbacks of these All I lay stress on is that the maintenance of the roll and the holding of the elections has certainly not yet been proved to be an insuperable obstacle and as for the objection that contact and communication will be difficult I can only reply that exactly the same difficulty attends the proposals which the committee have put forward and which my colleagues have accepted for the Sikh seats in the Punjab council the general seats in the Lahore division and the Muhammadan seats in many provinces not to speak of the Indian Christian constituencies in Madras, one of which comprises eleven districts We are prepared to face these drawbacks for the provincial councils why should we fear them for the Assembly?

13 The committee s objection in para 34 of their report that a higher franchise would give the landholders undue predominance while they would also get their own separate representation, begs the issue Let us first see what sort of constituencies a moderately high franchise will yield both in town and country, and then decide whether any landlord constituencies are needed or not The principle laid down in para 225 of the Report is sound We should begin with the franchises and not with statistics of the Assembly

14 My decided opinion therefore is that we should ask local Govern

ments at once to prepare a scheme of direct elections to both chambers: the constituencies for the Council of State to include the conservative elements such as the landholders and the vested commercial interests. There is plenty of time for this before the reforms take effect.

15. It follows that I dissent from paras. 23 and 24, 36, 39, 42 and 43 of the despatch.

W. H. VINCENT.

Simla, April 23, 1919.

List of enclosures

I Report of the Franchise Committee dated February 22 1919

II Extract from a speech by H E the Viceroy dated September 4, 1918

III Memorandum by the Government of India on the composition of the Legislative Assembly

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APPENDIX II

Extract from a speech by His Excellency the Viceroy, dated September 4 1918

"I said that I would not follow up the various criticisms which have been made on our scheme, but Hon ble Members will probably expect something from me on the vexed question of communal representation I cannot help thinking that much more has been read into our proposals than they were intended to convey We wished indeed to make it clear that, in our opinion, communal electorates were to be deprecated for the reasons set out in our report But it was in the main to the method of securing communal representation by communal electorates that we took exception, and not to communal representation itself The careful reader of the report will see that we regard this as inevitable in India and that we clearly contemplate the representation of those communities and classes and interests who prove their case before the committee shortly to be appointed to examine the question I am most anxious that the fullest representation should be secured to the various classes and communities in India but I am frankly doubtful myself whether the best method for securing that representation is through a system of separate electorates However, I am content to leave the unravelling of this important question in the hands of the committee, who will have the fullest evidence placed before them and will be free to make such recommendations as they think right, unfettered by our report"

APPENDIX III

Memorandum

The Government of India upon consideration of the opinions before them, have felt themselves unable to prepare plans for the composition of the legislative assembly which conform closely to the figures proposed in the report Their difficulty is that they find themselves unable to secure the representation of certain interests which they think should find a place unless the total strength of the assembly is raised to the (approximate) figure 117 The table which they present to the committee is accordingly framed upon that basis

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2 Before explaining the basis of the representation proposed for the various interests the Government of India wish to make clear their intentions upon one or two general points In the first place they consider that the system of election to the assembly should, if in any way practicable, be by direct election and that the voting qualification

for the assembly should be considerably higher than that for the provincial councils. Upon the information before them they are not at present satisfied that such direct election is impossible. If it becomes necessary to have recourse to indirect election they consider that there should be a material difference of method between indirect elections to the assembly and to the council of state. Secondly they propose that officials, if otherwise qualified, should have votes in the constituencies appropriate to them.

3. The accompanying table has been based partly on population qualified by other considerations including the relative amounts contributed by the respective provinces to the central exchequer. The Government of India have found no way of satisfactorily applying the factor of education, and have therefore left it out of consideration entirely. The population factor is based on the total population of the provinces, and for the present the population of backward tracts has not been excluded. But in the absence of complete information as to the proposals made to the committee by provincial Governments and as to the committee's proposals for the provincial councils it is impossible for the Government of India to base their provisional proposal on any but a rough estimate of provincial needs. Nor do they think it possible to reduce the other factors which they have taken into account to any mathematical expression. At present they look to the Franchise Committee to make the detailed calculations upon which any scheme of representation must rest, and the figures placed before the Committee in the accompanying table should be taken as expressing no more than the net result of the Government of India's general impressions as to the claims to consideration for the various localities and interests.

4. On a few points, however, a word of explanation may be added. (1) The Government of India have not thought it necessary or desirable to adopt for the legislative assembly the proportion of seats for the Muhammadans in the Congress-League agreement of December 1916. The number of Muslim seats proposed for the United Provinces is thought to be justified by the political importance of the Muslims of that province. (2) The proportion of seats set down for European interests is higher than can be justified on any numerical basis; but strong representation of these interests is thought to be well justified on account of the stake of European commerce in the country and also to be politically expedient. The category "European interests" includes European commerce, but the proposed distribution of seats between Provinces has been made with reference to the latter only and will require further examination. (3) The further question whether the seats provisionally allotted for non-Brahmans in Madras should be included in the general Madras electorate will depend largely upon whether election to the general seats in that presidency can be expected to result in adequate non-Brahman representation.

5. For the present the Government of India reserve their proposal regarding the distribution of the nominated seats in the assembly. This matter cannot be entirely dissociated from the question of the composition of the council of state.

TABLE.

Showing elective seats in the Legislative Assembly.

—	General	Muhammadans.	Non-Brahmans	Sikhs.	City.	Landholders	European interests	Indian Commerce	Total.
Bengal	5	3			1	1	3	1	14
Bombay	5	1			1	1	2	2	12
United Provinces	8	3				1	1		13
Madras	6	1	3			1	1		12
Punjab	3	3		1		1			8
Bihar and Orissa	6	1				1			8
Central Provinces	3					1			4
Burma	3						1		4
Assam	2								2
Total	41	12	3	1	2	7	8	3	77
European non official community.							1		1
Total elective seats									78

MGIPC—L—VII-9—31-10 28—2,000.